

ELIZABETH II



1985 CHAPTER xvii

An Act to re-enact with amendments and to extend certain local enactments in force within the county of Leicestershire; to confer further powers on the Leicestershire County Council and local authorities in the county; to make further provision with regard to the environment, local government, improvement, health and finances of the county; and for other purposes.

[26th June 1985]

WHEREAS by virtue of the Local Government Act 1972 1972 c. 70. (hereinafter referred to as "the Act of 1972") the county of Leicestershire (hereinafter referred to as "the county") was constituted on 1st April 1974 so as to consist of an area comprising the county borough of Leicester and the administrative counties of Leicestershire and Rutland as existing immediately before the passing of the Act of 1972:

And whereas numerous local enactments were in force in parts of the said area and by section 262 of the Act of 1972 it was provided that, subject to certain modifications, certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before 1st April 1974:

And whereas it was further provided by the said section 262 that certain local statutory provisions should cease to have

effect at the end of 1984, a period since extended by order of the Secretary of State so as to expire at the end of 1986:

And whereas it is expedient that certain of the said enactments should be re-enacted with amendments and applied to the whole of the county:

And whereas it is expedient at the same time to extend and enlarge in various respects the powers of the Leicestershire County Council and local authorities in the county:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Act of 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

Citation and
commence-
ment.

1.—(1) This Act may be cited as the Leicestershire Act 1985.

(2) This Act shall come into operation on the expiration of three months after the passing of this Act.

Interpretation.
1936 c. 49.

2.—(1) In this Act, unless the context otherwise requires—

“the Act of 1936” means the Public Health Act 1936;

1950 c. 39.

“the Act of 1950” means the Public Utilities Street Works Act 1950;

1956 c. xlix.

“the Act of 1956” means the Leicester Corporation Act 1956;

1961 c. 64.

“the Act of 1961” means the Public Health Act 1961;

1968 c. xl.

“the Act of 1968” means the Leicester Corporation Act 1968;

1971 c. 78.

“the Act of 1971” means the Town and Country Planning Act 1971;

1972 c. 70.

“the Act of 1972” means the Local Government Act 1972;

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—cont.

- “the Act of 1976” means the Local Government (Miscellaneous Provisions) Act 1976; 1976 c. 57.
- “the Act of 1980” means the Highways Act 1980; 1980 c. 66.
- “the Act of 1982” means the Local Government (Miscellaneous Provisions) Act 1982; 1982 c. 30.
- “the Act of 1984” means the Road Traffic Regulation Act 1984; 1984 c. 27.
- “the appointed day” has the meaning assigned to that expression by section 3 of this Act;
- “the city” means the city of Leicester;
- “contravention” includes a failure to comply, and “contravene” shall be construed accordingly;
- “the county” means the county of Leicestershire;
- “the county council” means the Leicestershire County Council;
- “daily fine” means a fine for each day on which an offence is continued after conviction thereof;
- “district” means a district in the county;
- “district council” means the council of a district;
- “drain” has the meaning given by section 343 of the Act of 1936;
- “the electricity board” means the East Midlands Electricity Board;
- “fire authority”, in relation to any premises, means the authority discharging in the area in which the premises are situated the functions of fire authority under the Fire Services Act 1947; 1947 c. 41.
- “footway” has the meaning given by section 329 of the Act of 1980;
- “the gas corporation” means the British Gas Corporation;
- “the generating board” means the Central Electricity Generating Board;
- “the Leicester council” means the Leicester City Council;
- “local authority” means the county council or a district council;
- “officer” includes servant;
- “owner” has the meaning given by section 343 of the Act of 1936;
- “parish council” means a parish or town council in the county;
- “premises” includes messuages, buildings, easements and hereditaments of any tenure;

PART I
—cont.

1984 c. 12.

“road” has the meaning given by section 142 (1) of the Act of 1984;

“sewer” has the meaning given by section 343 of the Act of 1936;

“statutory undertakers” means the operator of a telecommunications code system as defined in paragraph 1 (1) of Schedule 4 to the Telecommunications Act 1984, the electricity board, the gas corporation, the generating board and the water authority, or any of them, as the case may be;

“street” has the meaning given by section 329 of the Act of 1980;

“traffic sign” has the meaning given by section 64 of the Act of 1984;

“the water authority” means the Anglian Water Authority and the Severn-Trent Water Authority, or either of them, as the case may be.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority or area, be construed as a reference to an officer appointed for that purpose by that authority or for that area, as the case may be.

(3) Any reference in this Act to a Part not otherwise identified is a reference to that Part of this Act.

Appointed
day.

3.—(1) In this Act “the appointed day”, in relation to any provision, means such day (not earlier than three months after the passing of this Act) as may be fixed for the purposes of that provision in accordance with subsection (2) below by resolution of the county council or, as the case may be, a district council.

(2) The local authority shall publish in a newspaper circulating in their area notice—

(a) of the passing of any such resolution and of the day fixed thereby; and

(b) of the general effect of the provision for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.

(3) A photostatic or other reproduction certified by the proper officer to be a true reproduction of a page, or part of a page, of any newspaper, being a page or part of a page bearing the date of publication and containing the notice mentioned in subsection (2) above, shall be evidence of the publication of the notice and of the date of publication.

PART II

LAND, OPEN SPACES AND MUNICIPAL PROPERTY

4.—(1) No person shall without lawful authority or reasonable excuse remove or interfere with any property placed in any street or public place within the county, being property to which this section applies.

Interference with traffic signs, life-saving equipment, etc., of local authorities, etc.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) This section applies to property of the following descriptions, namely:—

- (a) traffic signs;
- (b) bollards, lights or other things (not being traffic signs) placed on, over or along the highway, or land adjoining the highway, for the purpose of assisting, warning or directing traffic; and
- (c) lifebelts or other equipment for preventing drowning; which is vested in a local authority, a parish council or the police authority.

5.—(1) In this section and Schedule 1 to this Act—

“apparatus”, “code-regulated works”, “maintainable highway”, “street”, “street authority” and “undertakers” have the same respective meanings as in the Act of 1950;

Statutory undertakers’ apparatus to be laid in land which is not a street.

“in” in a context referring to apparatus includes under, over, across, along or upon;

“regulated land” means open land not forming part of a street, being land which either—

- (a) is owned by a local authority; or
- (b) is the subject of a subsisting agreement made under subsection (6) below.

(2) Subject to the provisions of this section, a local authority may, with the consent of every person being a lessee or occupier of regulated land or of any part thereof and having the interest of a tenant for a year or from year to year or any greater interest, authorise any undertakers to execute in that land works of any kind (being works which would be code-regulated works if they were executed or proposed to be executed in a street) and such an authorisation may be given either generally or as respects a particular class of such works or as respects particular works:

PART II
—cont.

Provided that in exercising the powers of this subsection the local authority shall not discriminate unfairly between any undertakers and any other undertakers.

(3) Subject to the provisions of this section and Schedule 1 to this Act, an authorisation given under this section shall be irrevocable, and, where such an authorisation has been duly given as respects any works, the undertakers shall have the like power to execute the works in the regulated land, and the like rights in relation to apparatus placed in exercise of that power, as if the regulated land were a maintainable highway comprising a footpath only (and, where any consent of the street authority as such would be requisite for the execution of the works, as if that consent had been given unconditionally), and shall have power to enter upon the regulated land for the purposes of the execution of the works therein.

(4) Before giving an authorisation under this section the local authority shall publish in a local newspaper circulating in their area a notice of their intention to give the authorisation, and shall, not later than the day on which the notice is published, serve a like notice on every person being an owner, lessee or occupier of the regulated land or of any part thereof and having the interest of a tenant for a year or from year to year or any greater interest, and no person shall be entitled to question the power of the local authority to give the authorisation, or the validity of the authorisation when given, in any proceedings commenced later than the expiration of one month from the date on which the notice was published.

(5) Parts I, III and IV of the Act of 1950 shall have effect in relation to any works so authorised which are executed or proposed to be executed in regulated land as if the regulated land were a maintainable highway comprising a footpath only and as if the street authority were the county council in relation to land in their ownership but otherwise were the district council.

(6) A district council and any owner of land in their area may enter into and may carry into effect agreements providing for the exercise by the district council of their powers under subsection (2) above in relation to any such land.

(7) The provisions of Schedule 1 to this Act shall have effect in relation to undertakers whose apparatus is in any regulated land.

Amenity
areas.

6.—(1) This section applies to any land in a district which adjoins or is accessible from a street and is—

- (a) land of the district council and mown or otherwise maintained in an ornamental condition; or

(b) land vested in a person other than the district council and mown or maintained as aforesaid not forming part of a highway maintainable at the public expense.

(2) A district council may by notice prohibit, either entirely or at such times or on such days as may be specified in the notice, the doing of any of the following things on land to which this section applies:—

- (a) allowing horses or cattle to enter such land;
- (b) driving, or riding a vehicle on such land;
- (c) using any play or other equipment provided by the district council or another person on such land.

(3) In the case of any prohibition by virtue of paragraph (c) of subsection (2) above the district council may exempt a child under such age as may be specified in the notice in respect of that paragraph and may similarly exempt any other person who is in charge of such a child while the child is on the land.

(4) A prohibition under subsection (2) (b) above shall not extend to driving or riding a vehicle—

- (a) in the course of building operations; or
- (b) by statutory undertakers or the British Railways Board where reasonably necessary for the exercise of their statutory powers:

Provided that the exemption afforded by paragraph (a) above shall be conditional upon means being taken to the satisfaction of the district council to minimise injury to the land and to protect persons on the land.

(5) For the purposes of this section notice shall be given by displaying it in a conspicuous position on or near the land to which it relates.

(6) The erection and display of a notice by a council under subsection (2) (b) above shall be subject to, and in conformity with, directions given under section 65 (1) of the Act of 1984 as though it were a traffic sign.

(7) A person who without reasonable excuse contravenes a notice posted under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) Notice shall not be given in respect of such land as is mentioned in subsection (1) (b) above except with the consent of the person concerned or his representatives.

(9) Land which a district council or other person has acquired an estate or interest in or control over shall be deemed to be land of the district council or other person, as the case may be, for the purposes of this section.

PART II

—cont.

Prohibition of
vehicles on
certain vacant
land.

7.—(1) Subject to subsection (2) below, a district council may by notice prohibit persons, either entirely or at such times or on such days as may be specified in the notice, from driving a mechanically propelled vehicle on to any vacant land in the district which is accessible from a street not being land to which section 6 (Amenity areas) of this Act applies or land forming part of a highway maintainable at the public expense.

(2) A council shall not without the consent of the owner give a notice under subsection (1) above in respect of land not vested in them.

(3) (a) For the purposes of this section notice shall be given by displaying it in a conspicuous position on or near the land to which it relates.

(b) The erection and display of a notice by a council under subsection (1) above shall be subject to, and in conformity with, directions given under section 65 (1) of the Act of 1984 as though it were a traffic sign.

(4) A person who without reasonable excuse contravenes the notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A prohibition under this section shall cease to have effect after six months, or such longer period as the council may by resolution prescribe, after the date when the notice referred to in subsection (1) above was first displayed.

(6) Nothing in this section shall extend to driving a vehicle by the British Railways Board where reasonably necessary for the execution of their statutory powers.

Removal of
vehicles.

8.—(1) If a motor vehicle is left in a district elsewhere than on a road or in an off-street parking place provided under section 32 of the Act of 1984 the district council may—

(a) if so requested by the owner of the land on which the vehicle is left; or

(b) in a case in which the owner is not in occupation of such land, with the consent of the occupier thereof; after 7 days' notice to the owner of the vehicle, cause it to be removed.

(2) The provisions of any regulations for the time being in force under section 99 of the Act of 1984 which relate to the method of removing vehicles and their loads shall apply to vehicles removed under this section.

(3) Section 102 of the Act of 1984 and any regulations for the time being in force under that section shall apply to a vehicle

removed under this section as if it had been removed from a road in pursuance of regulations under section 99 of the Act of 1984.

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—cont.

(4) For the purpose of the said section 102 and any such regulations as applied by subsection (3) above “the appropriate authority” means the district council and any reference in regulations made under section 99 of the Act of 1984 to a charge to payment of which the appropriate authority are entitled under the said section 102 shall be construed accordingly.

(5) Nothing in this section shall apply to a motor vehicle which appears to the district council to have been abandoned without lawful authority.

(6) In this section “motor vehicle” has the same meaning as in the Refuse Disposal (Amenity) Act 1978 and “owner” in 1978 c. 3. relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement means the person in possession of the vehicle under that agreement.

PART III

HIGHWAYS

9.—(1) Where danger or obstruction may be caused to persons or vehicles using a highway in the county maintainable at the public expense by—

Recovery of
expense of
fencing or
lighting
obstructions.

- (a) any defective gully, grid, manhole, step, area grate or other fitting or structure in the highway;
- (b) damage to the highway caused by the deposit of anything on it;
- (c) any hoarding or scaffolding erected on or over the highway; or
- (d) builders’ skips (within the meaning of section 139 (11) of the Act of 1980) or builders’ materials, rubble or waste, other rubbish or earth or any other thing placed or deposited on the highway;

and the highway authority take steps to protect persons or vehicles by fencing or lighting any such source of danger or obstruction, they may recover the expenses reasonably incurred by them in so doing from the owner of the thing giving rise to such danger or obstruction or, as the case may be, the person or persons responsible for its defective condition or for the erection or, as the case may be, the placing or depositing of that thing in the highway.

PART III
—cont.

(2) This section shall not apply to expenses incurred by the highway authority in respect of code-regulated works to which the requirements of section 8 of the Act of 1950 apply.

(3) This section shall have effect without prejudice to the powers of the highway authority under any other enactment to recover expenses incurred by them.

Control of
floodlighting.

10.—(1) If it appears to the highway authority that floodlighting by apparatus provided on any premises in the county constitutes a danger to the traffic on any street in the county, the highway authority may by notice require the owner or occupier of the premises forthwith to cease using the apparatus and not to begin again to use the apparatus otherwise than—

- (a) in accordance with such terms, conditions or restrictions as may be specified in the notice; or
- (b) in accordance with such other terms, conditions or restrictions as may be imposed by the highway authority and attached to any consent given by them to the use of the apparatus.

(2) The provisions of section 290 of the Act of 1936 shall apply to notices given under this section as they apply to notices mentioned in subsection (1) of that section; and that section as so applied shall have effect as if references to the local authority were references to the highway authority.

Vesting of
former
highway land.

11.—(1) Where under or by virtue of any enactment a highway has been stopped up or diverted and it appears to the highway authority that no person can establish a title to the site of such former highway or any part thereof the highway authority may apply to the county court for an order vesting the land forming the site of such former highway or part thereof for an estate in fee simple absolute free from incumbrances in the highway authority or, with his consent, in such other person as the court may determine.

(2) The county court shall not make an order under subsection (1) above unless it is satisfied that not less than 21 days before hearing the application for the order a notice of their intention to apply for the order—

- (a) has been served by the highway authority on every owner, lessee and occupier of lands adjoining, on the district council concerned and on all statutory undertakers having apparatus under, in, upon, over, along or across the former highway; and
- (b) has been displayed in a prominent position at each end of the former highway.

PART III
—cont.

(3) Where the county court makes an order under subsection (1) above the land forming the site of the former highway or part thereof shall vest in the highway authority or other person named in the order for an estate in fee simple absolute free from incumbrances as if circumstances in which under Part I of the Compulsory Purchase Act 1965 an authority authorised to purchase land compulsorily have power to execute a deed poll had arisen in respect of the land and all interests therein, and as if the acquiring authority had duly exercised that power accordingly on the date of the court order. 1965 c. 56.

(4) (a) Where the county court makes an order vesting the site of a former highway or part thereof under subsection (1) above and within a period of 12 years from the date of such order a person establishes a title to such site or part thereof the highway authority or other person in whom the former highway or part thereof is vested or their successors in title, as the case may be, shall pay compensation to such person, and the Land Compensation Act 1961 shall apply to the assessment of such compensation. 1961 c. 33.

(b) Compensation under paragraph (a) above shall be assessed as at the date of the order vesting the land in question and shall carry interest from that date to the date of payment at the rate prescribed under section 32 of the said Act of 1961 (rate of interest after entry on land).

(5) Nothing in any order made by the county court under subsection (1) above shall prejudice or affect any rights of statutory undertakers with respect to any apparatus of theirs under, in, upon, over, along or across the land forming the site of the former highway.

(6) In this section—

“highway” does not include a footpath, bridleway, cartway, a road used as a public path or a byway open to all traffic; and

“road used as a public path” and “byway open to all traffic” have the same meanings as in the Wildlife and Countryside Act 1981. 1981 c. 69.

12.—(1) The highway authority may recover from any person carrying on building operations, whether on his own account or as a contractor, or delivering goods to premises in the course of trade, the cost of making good damage caused in the course of those operations or deliveries to the grass verge or footway of a highway maintainable at the public expense by vehicles being taken across, or machinery being on, or the loading or unloading or stacking of materials or goods on, the grass verge or footway. Damage to footways, etc.

PART III
—cont.

(2) In this section “building operations” includes rebuilding operations, demolition, excavations, structural alterations of, or additions to, buildings and other operations normally undertaken by a person carrying on business as a builder.

Plans, etc.,
of new
streets.

13.—(1) No work shall be done in or for the purpose of the construction of any new street in a district—

(a) unless the owner of the land on which the street is to be constructed or, if he is a different person, the person to whom or on whose behalf planning permission has been granted for the carrying out of development including the construction of the street, has submitted to the street works authority plans, sections and all reasonable particulars with respect to the level and width of, and specifications for, the proposed street, including the sewers and drains therein, together with an application for approval of the same, and that authority have approved those plans, sections and particulars under this section in respect of the works of constructing the street therein described;

(b) otherwise than in accordance with those plans, sections and particulars as so approved and subject to such reasonable conditions as, in giving their approval, the street works authority may impose as to—

(i) the giving of notices and the deposit of plans;

(ii) the inspection of work, the testing of sewers and the taking by the authority of samples of the materials used in the execution of the work of constructing the street, including the sewers and drains therein; or

(iii) the making good of defects in the work occurring during the period of 12 months following its completion.

(2) (a) Before the expiration of one month from the receipt of plans, sections and particulars under subsection (1) above the street works authority may give to the person by or on whose behalf they were submitted notice specifying—

(i) such modifications of any plans, sections and particulars submitted to them; and

(ii) compliance with such conditions mentioned in subsection (1) (b) (i), (ii) and (iii) above;

as they may reasonably require to secure the satisfactory construction of the street, including the sewers and drains therein:

Provided that, except in the case of drains to be provided for the purpose of draining surface water from the street, the

requirements which may be made under this subsection with respect to sewers and drains shall be those reasonably required to secure the stability of the street as constructed.

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—cont.

(b) In default of giving any notice under paragraph (a) above, the street works authority shall be deemed to have approved the plans, sections and particulars as submitted free of conditions other than—

(i) such rights of inspection, of carrying out tests and taking samples by the street works authority as are described in subsection (1) (b) (ii) above and as may be reasonable; and

(ii) a condition requiring the making good of defects described in subsection (1) (b) (iii) above.

(c) Any question arising whether—

(i) modification of plans, sections and particulars is reasonably required; or

(ii) conditions imposed under subsection (1) (b) above are reasonable;

shall in default of agreement between the street works authority and the person by or on whose behalf the plans, sections and particulars were submitted be determined by arbitration.

(3) (a) If work is done in contravention of subsection (1) above, the owner of the land on which the street is to be constructed and, if he is a different person, the person undertaking the construction of the street shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a daily fine not exceeding £50.

(b) Where the person undertaking the construction of the street, not being the owner of the land on which it is to be constructed, is charged with an offence under this subsection in respect of the contravention of subsection (1) (a) above, it shall be a defence for him to prove that he had reasonable grounds for believing that the plans, sections and particulars had been submitted by the owner of the land and approved in accordance with the said subsection (1) (a).

(c) Proceedings in respect of an offence under this subsection shall not be taken by any person other than the street works authority.

(4) Nothing in this section shall apply with respect to—

(a) any new street the subject of an agreement made under section 38 of the Act of 1980 (agreements by highway authorities to adopt) or a new street as respects which a sum has been paid to the street works authority or secured in compliance with section 219 of that Act (payments to be made in respect of street works);

PART III
—cont.

(b) any new street constructed by the British Railways Board and authorised by any enactment.

(5) Where a new street has been constructed in accordance with plans, sections and particulars approved or deemed to have been approved by the street works authority under this section and in compliance with any conditions imposed by them in giving their approval, the street works authority shall by notice displayed in a prominent position in the street declare the street to be a highway which for the purposes of the Act of 1980 is a highway maintainable at the public expense and on the expiration of one month from the day on which the notice was first so displayed the street shall become such a highway.

(6) This section shall apply in the city as from the commencement of this Act and in any other district as from the appointed day, such day to be fixed by the county council.

Temporary
prohibition of
traffic during
execution of
works.

14.—(1) Where the highway authority are satisfied—

- (a) that traffic on any road should, by reason of any works being executed or proposed to be executed on or near the road, be restricted or prohibited; and
- (b) that it is desirable that such restriction or prohibition should come into force without delay and that for this reason it is not expedient to effect such restriction or prohibition by means of an order made under section 14 (1) of the Act of 1984;

they may by notice restrict or prohibit for any period not exceeding 24 hours the use of that road or any part thereof by vehicles, or by vehicles of any particular class or description, to such extent and subject to such conditions and exceptions as they may consider necessary:

Provided that the powers conferred on the highway authority by this section shall not be exercised—

- (i) with respect to any road or any part thereof on more than one occasion in any period of 14 consecutive days; or
- (ii) with respect to any road upon which public service vehicles are authorised by a road service licence to operate unless the highway authority give not less than 48 hours' previous notice to the traffic commissioners and to the operators of the public service vehicles so licensed; or
- (iii) so as to prevent such access to, or egress from, any station or depot used by public service vehicles or by the British Railways Board as may be reasonably required for vehicles using such station or depot.

PART III
—cont.

(2) The provisions of section 14 (4) to (7) and (9) and section 16 (2) and (3) of the Act of 1984 shall extend and apply for the purposes of this section as if any notice issued by the highway authority under subsection (1) above had been issued under subsection (3) of the said section 14.

(3) The highway authority shall place traffic signs on or near any road affected by a notice issued under subsection (1) above as if it was affected by a notice issued under section 14 of the Act of 1984.

(4) Notwithstanding the imposition of any restriction or prohibition on the use of any road under the powers of this section, any statutory undertakers shall be at liberty at all times to execute and do all such works and things in, upon or under such road as may be necessary for inspecting, repairing, maintaining, renewing or removing any apparatus of those undertakers which at the time of the imposition of such restriction or prohibition is in that road.

(5) In their application to the county section 14 (5) of the Act of 1984 shall have effect as if at the end of paragraph (a) there were inserted the words “or, as the case may be, by notice issued by them” and section 14 (6) shall have effect as if after the word “order” where it occurs the first time there were inserted the words “or notice”.

15.—(1) The highway authority shall have power to affix to any building or structure in, or having a frontage to, or constructed over, any road in the county in accordance with this section—

Affixing of
traffic signs
to walls.

(a) any traffic sign which they have power to place on or near any road under section 65 (functions of highway authorities as to placing of traffic signs) or, as the case may be, section 68 (functions of certain traffic authorities in respect of traffic signs) of the Act of 1984; or

(b) any apparatus required for illumination forming part of any such sign.

(2) In their application in the county subsections (2), (4) to (6), (8) and (9) of section 45 of the Act of 1961 (affixing of apparatus to buildings for street lighting) shall have effect, with the necessary modifications, as if the street lighting authority therein referred to included the highway authority and the attachments therein specified included any sign or apparatus mentioned in subsection (1) above.

(3) Nothing in this section shall derogate from the power of the highway authority to enter on land for the placing of traffic

PART III
—cont.

signs in pursuance of section 71 of the Act of 1984, or to carry out any work for the improvement of a highway in pursuance of section 62 of the Act of 1980.

(4) In exercising their powers under this section the highway authority shall be bound by the duties imposed on them by section 122 (general duties with respect to road traffic) of the Act of 1984 as if this section were included in that Act.

Consent to
projections.

16. A competent authority shall not under section 152 (1) of the Act of 1980 require the removal or alteration of any such obstruction or projection as is mentioned therein if it was erected or placed with the prior consent of the competent authority and any conditions attached to the grant of such consent are being complied with:

Provided that nothing in this subsection shall prevent a competent authority from requiring the removal or alteration of any such obstruction or projection if, by reason of changed circumstances, it has become an obstruction to safe or convenient passage along a street since the consent of the competent authority was given.

Provision of
trees and
shrubs.

17.—(1) The powers in section 96 of the Act of 1980 with respect to a highway maintainable at the public expense shall in the county be exercisable with respect to any street that is a highway, whether or not maintainable at the public expense.

(2) The power in the said section 96 (as extended by this section) to plant trees and shrubs in the highway, and the power in section 142 of the Act of 1980 to license the planting of trees or shrubs in the highway, shall in the county include power to provide or, as the case may be, license the provision of trees or shrubs planted in tubs or other containers; and any such tub or other container may be attached to a post or standard with the consent of the owner thereof.

(3) The highway authority or a district or parish council shall not exercise the powers of section 96 of the Act of 1980 as it has effect by virtue of this section in relation to any street belonging to or repairable by the British Railways Board except with the consent of that board, which consent shall not be unreasonably withheld and any question whether consent is unreasonably withheld shall be determined by arbitration.

(4) Without prejudice to the code in Part II of the Act of 1950 (which regulates the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) paragraph 23 of the telecommunications code contained in Schedule 2 to the Telecommunications Act

1984 (which provides a procedure for certain cases where works involve the alteration of telecommunications apparatus) shall apply, for the purposes of any works which may be done in exercise of the powers conferred by this section, to the highway authority or the district or parish council, as the case may be.

PART III

—cont.

1984 c. 12.

18.—(1) In this section—

Pedal cycles.

“cycle” has the meaning given by section 196 (1) of the Road Traffic Act 1972;

1972 c. 20.

“pedestrian area” means any place—

(a) over which at the material time, in the case of land dedicated to public use, the public have a right of way on foot only, not being a footway; or

(b) to which at the material time, in the case of land not so dedicated, the public are permitted to have access on foot only.

(2) A district council may, by notice prohibit, either entirely or at such times or on such days as may be specified in the notice, the riding of cycles in any pedestrian area in the district.

(3) A prohibition shall not be imposed under this section except with the consent of—

(a) the highway authority, as respects any place over which the public have a right of way; or

(b) the owner of the land, as respects any other place.

(4) (a) For the purpose of subsection (2) above notice shall be given by displaying it in a conspicuous position on or near the pedestrian area to which it relates.

(b) Where the notice is a notice for conveying to traffic on roads a prohibition under subsection (2) above it shall be a traffic sign and the erection and display of the notice by the district council shall be subject to, and in conformity with, general directions given under section 65 (1) of the Act of 1984.

(5) Any person who without reasonable excuse contravenes a notice given under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) In any case in which proceedings can be taken either under this section or under a byelaw made either under section 35 (6) of the Act of 1980 (creation of walkways by agreement) or under section 44 (Policing and control of pedestrian ways) of this Act those proceedings shall be taken under that byelaw and not under this section.

19.—(1) A district council may allocate to the buildings in a street in their district such numbers as they think fit.

Street numbers.

PART III
—cont.

1847 c. 34.

(2) Where a number has, or numbers have, been allocated to a building under this section or under section 64 of the Towns Improvement Clauses Act 1847, the district council may serve on the owner or occupier of the building a notice requiring him within such period, not less than three weeks, as may be specified in the notice to mark the building with that number, or those numbers, in such a way as to make the mark legible from the street.

(3) The owner or occupier of a building shall—

- (a) maintain the mark in such a way that it remains legible from the street; and
- (b) keep the view of the mark from the street unobstructed to such extent as is practicable.

(4) A district council may alter the number or numbers allocated to a building, and where they do so subsections (2) and (3) above shall apply to the altered number or numbers.

(5) A district council may, instead of requiring a building to be marked with a number or numbers under this section, require it to be marked with such other means of identification as they may, at the request of the owner or occupier, allow; and subsections (2) and (3) above shall have effect accordingly.

(6) An owner or occupier of a building who without reasonable excuse—

- (a) fails to comply with a notice served on him under subsection (2) above; or
- (b) contravenes subsection (3) above;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) The following provisions of the Towns Improvement Clauses Act 1847 shall cease to have effect in the county:—

- (a) in the words introducing sections 64 and 65, the words “and numbering the houses”;
- (b) in section 64 the words from “shall from time to time” to “think fit, and”, and the words “number or” wherever occurring;
- (c) section 65.

Contribution
to cost of
private street
works.

20. A district council may at any time resolve to bear the whole or a portion of the expense of any street works in their district under the private street works code, as defined by section 203 of the Act of 1980, and where a council so resolve the liabilities of the owners of premises in respect of those expenses shall be treated as discharged, or as proportionately reduced, accordingly.

PART IV

PUBLIC HEALTH AND AMENITIES

21.—(1) This section applies to a stand for the accommodation of spectators of, or participants in, any sport or other competitive activity or any entertainment, exhibition or public gathering, not being a stand— Safety of stands.

- (a) comprising a work of which plans, sections, specifications or written particulars must be deposited in accordance with building regulations; or
- (b) erected for the purposes of his business by the proprietor of a pleasure fair as defined in section 75 of the Act of 1961.

(2) As from the appointed day in any district no person shall in the district make available or permit the use of a stand to which this section applies for the accommodation of 20 or more persons unless it has been erected in accordance with particulars approved by the district council under the following provisions of this section.

(3) Any person who intends to erect in the district a stand to which this section applies for the accommodation of 20 or more persons shall—

- (a) give to the district council notice of his intention, stating the period for which the stand is intended to remain erected; and
- (b) submit for approval by the district council such particulars of the intended stand as the council may require.

(4) On receipt of a notice under subsection (3) (a) above the district council shall consult the fire authority.

(5) The particulars required under subsection (3) (b) above shall not include a plan and section of the intended stand but not more than 7 days after the submission of such particulars the district council may give to the person who gave the notice counter-notice requiring him to submit such a plan and section.

(6) Before the expiration of five weeks after the submission of particulars under subsection (3) (b) above, or four weeks after the submission of a plan and section required under subsection (5) above (whichever is the later), the district council may give to the person by whom the particulars, plan or section were submitted notice specifying—

- (a) such modifications of any plan, section and particulars submitted to them as they may require; and
- (b) such conditions as to maintenance and removal of the stand as they may require;

PART IV
—cont.

being modifications and conditions which appear to the district council to be necessary for securing the stability of the stand, the safety of persons to be accommodated on the stand, protection against fire (including access for fire brigade appliances and personnel) and the removal of the stand after the purposes of its erection have been fulfilled.

(7) Unless before the expiration of the said period of five weeks or, as the case may be, the said period of four weeks, the district council have given notice under subsection (6) above, they shall be deemed for the purposes of this section to have approved the erection of the stand in accordance with the particulars submitted.

(8) Any person aggrieved by the withholding of approval of the erection of a stand or a requirement of the district council under this section may appeal to a magistrates' court, which may dismiss or allow the appeal, or may vary any requirement of the district council, and may make directions for giving effect to its decisions.

(9) If any person—

(a) contravenes subsection (2) above; or

(b) contravenes such requirements as are mentioned in subsection (6) above;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(10) Where it appears to a district council that any stand to which this section applies has been erected or is in use in the district in contravention of this section or of any requirement made under this section, they may, after giving to the owner or occupier of the stand such notice as may be practicable in the circumstances that they propose to do so, do such works—

(a) to remedy the condition of the stand; or

(b) to prevent the continued use of the stand until its condition has been remedied; or

(c) to dismantle the stand;

as may reasonably be required to prevent danger arising from the use of the stand, and may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.

(11) Nothing in this section affects any requirement to obtain approval or any other obligation imposed by, or by virtue of, any other enactment.

22.—(1) If upon a complaint by a district council under this section, a magistrates' court is satisfied that any premises in the district at which open food is stored, sold or offered or exposed for sale for human consumption (whether on or off the premises) are by reason of the insanitary or defective condition of the structure or fittings or fixtures or equipment or by reason of infestation of vermin or accumulation of refuse in such a condition that the carrying on of a food business in or at those premises would contravene regulations made under section 13 of the Food Act 1984 and would be dangerous to health, the court shall by order prohibit the storage, sale or offer or exposure for sale at those premises of open food for human consumption until the state of the premises be remedied.

PART IV
—cont.

Closure of
insanitary food
premises and
stalls.

1984 c. 30.

(2) (a) Where a complaint has been made under subsection (1) above the court may on application by the district council, if it appears to the court that the premises to which the application relates are in such a condition as is mentioned in subsection (1) above, make an interim order prohibiting the storage, sale or offer or exposure for sale at those premises of open food for human consumption until the earliest opportunity for hearing and determining the proceedings to which the complaint gave rise or until a certificate is given under subsection (5) below, whichever is the earlier.

(b) In exercising its powers under this subsection the court may be composed of a single justice.

(c) Before making application under this subsection the district council shall give not less than 24 hours' notice to the person who is carrying on a food business in or at the premises and, if that person is not the owner of the premises, to the owner, and any person to whom such notice is given shall, if he attends before the court upon the application, be entitled to be heard and to call witnesses:

Provided that any notice required by this paragraph to be given to a person carrying on a food business in or at the premises to which the notice relates shall not be sent by post but shall be delivered to the person or delivered at his usual or last known residence or at the premises or, in the case of an incorporated company or body, shall be delivered at their registered or principal office or at the premises.

(d) As soon as practicable after the making of an interim order under this subsection the district council shall serve a copy of the order upon the person who immediately before the date of the order was carrying on a food business in or at the premises to which the order relates and, if that person is not the owner of the premises, upon the owner, and shall affix a copy of the order in or on the premises in a conspicuous position.

PART IV
—cont.

(3) (a) If on the hearing and determining of the proceedings under subsection (1) above in respect of which an interim order has been made under subsection (2) above, the court determines that the condition of the premises at the time of the making of the interim order was not such as to justify the making of that order, the court may order the district council to pay to the person who immediately before the date of the interim order was carrying on a food business in or at the premises, or to the owner of the premises, or to both such person and such owner, such compensation as in the opinion of the court represents any loss which he or they respectively have suffered from the making of the interim order.

(b) The district council or a person aggrieved by an order of a magistrates' court under this section may appeal to the Crown Court.

(4) Any person who contravenes an order or an interim order made under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) (a) Any person who intends to carry on a food business in or at any premises with respect to which an order or an interim order has been made under this section may make application to the district council who, if satisfied that the state of the premises has been remedied, shall give to the applicant a certificate to that effect and such a certificate shall be conclusive evidence that the state of the premises has been so remedied.

(b) Any person aggrieved by a refusal or failure of the district council to give a certificate under this subsection may appeal to a magistrates' court who may either dismiss the appeal or order the district council to give the certificate.

(c) Section 99 (Suspension of proceedings pending appeal) of this Act shall not apply in respect of a refusal or failure of the district council to give a certificate under this subsection.

(6) In this section—

“equipment”, “food business”, “open food” and “stall” have the respective meanings assigned to them by the regulations made under section 13 of the Food Act 1984 which apply to the premises or stall (as the case may require);

“premises” include a stall.

1984 c. 30.

Hairdressers
and barbers.

23.—(1) A person shall not in a district carry on the business of a hairdresser or barber unless he is registered by the district council under this section and, except as provided in subsection (2) below, he shall not carry on that business on premises occupied by him unless the premises are so registered.

(2) Premises are not required to be registered under this section by reason only that they are occupied by a hairdresser for the purpose of attending to persons employed at those premises.

PART IV
—cont.

(3) A district council may charge such reasonable fees as they may determine for registration under this section.

(4) On application for registration under this section the district council shall register the applicant and, if the application specifies premises, those premises, and shall issue to the applicant a certificate of registration.

(5) Any person who without reasonable excuse contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) The occupier of premises registered under this section shall keep a copy of the certificate of registration of the premises and of any byelaws made by the district council under section 77 of the Act of 1961 displayed in the premises, and if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a daily fine not exceeding £5.

(7) This section shall apply in the city as from the commencement of this Act and in any other district as from the appointed day.

24.—(1) A district council may with the consent of the owner or occupier of land take any steps for the destruction of rats or mice on the land, or otherwise for keeping it free from rats or mice, and recover from him any expenses reasonably incurred by them in doing so.

Control of
rats, mice and
insects.

(2) Where land is infested, or threatened with infestation, by insects of a particular kind, the powers of a district council under this section shall, as respects that land, apply in relation to such insects as they apply in relation to rats and mice.

(3) Section 294 of the Act of 1936 (limitation of liability of owners receiving rent as agent or trustee) shall apply to expenses incurred under this section as if they were expenses incurred under section 5 of the Prevention of Damage by Pests Act 1949.

1949 c. 55.

25. Section 22 of the Prevention of Damage by Pests Act 1949 (powers of entry) shall have effect in a district as if after subsection (1) there were inserted the following subsections:—

Powers of
entry for
Prevention of
Damage by
Pests Act
1949.

“(1A) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that admission to any land has been refused or that refusal is apprehended; or

PART IV
—cont.

(b) that the land is unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that an application for admission would defeat the object of the entry;

and, in either case, that there is reasonable ground for entry upon the land for any such purpose as is mentioned in subsection (1) of this section, the justice may by warrant under his hand authorise the local authority, by any person duly authorised by them in writing, to enter upon the land, if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the circumstances are as mentioned in paragraph (b) above.

(1B) A person entering upon any land by virtue of the foregoing provisions of this section or of a warrant issued under this section may take with him such other persons as may be necessary and on leaving any unoccupied land upon which he has so entered shall leave it as effectually secured against trespassers as he found it.

(1C) Every warrant issued under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.”.

Control of
brown tail
moth.

26.—(1) In this section “the moth” means the brown tail moth (*Euproctis chrysorrhoea* L.) and includes the eggs, caterpillars and webs or nests thereof.

(2) If it appears to a district council that steps should be taken for the destruction of the moth on any land in their district they may serve on the occupier of the land a notice requiring him to take such reasonable steps for the destruction of the moth as may be specified in the notice.

(3) In addition to, or instead of, serving a notice under subsection (2) above, the district council may themselves take steps for the destruction of the moth, or pay, or contribute towards, the expenses of the occupier in taking the steps required by the notice.

(4) Subsections (2), (3) (except paragraphs (e) and (f)), (4), (6) and (7) of section 290 of the Act of 1936 (appeals against, and the enforcement of, certain notices under that Act) shall apply to any notice served under subsection (2) above as they apply in relation to the notices mentioned in subsection (1) of that section and as if—

(a) the execution of works included the taking of steps for the destruction of the moth; and

(b) the following paragraphs were inserted at the end of subsection (3):—

- “(g) that the taking of the steps required by the notice would be ineffective for the purposes of destruction of the moth in the area in which the land in question is situated;
- (h) that, having regard to the expense of taking any steps required by the notice, the authority have unreasonably refused to assist in taking those steps or to contribute the whole or part of the cost thereof.”.

27.—(1) This section applies to any building operation, including any work of demolition or the cleansing of any building or structure, which is either carried out in the open air or carried out in such circumstances that dust from the operation is emitted into the open air except any work of demolition in respect of which a notice may be served under section 29A of the Act of 1961. Dust, etc.,
from building
operations.

(2) Except as provided in subsection (6) below, a district council may give notice to any person carrying out, or controlling the carrying out of, an operation to which this section applies in their district requiring him, within such time as is specified in the notice, to take such reasonably practicable steps as are so specified to reduce the emission of dust from the operation.

(3) In considering what steps are reasonably practicable for the purposes of subsection (2) above, the district council shall have regard, amongst other matters, to the requirements of safety and safe working conditions, any relevant provisions of any code of practice approved under section 16 of the Health and Safety at Work etc. Act 1974 and to the financial implications. 1974 c. 37.

(4) Any person aggrieved by a notice under subsection (2) above may appeal to the county court and the judge may make such order, either confirming or quashing or varying the notice, as he thinks fit but shall not so vary the notice that it is more onerous than the notice given by the district council.

(5) (a) Subject to any order made on appeal under subsection (4) above, any person who fails to comply with a notice under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and to a daily fine not exceeding £20.

(b) In any proceedings under this subsection it shall be a defence to show that the quantity of dust emitted into the open air was not materially greater than would have been emitted if the notice had been complied with.

PART IV
—cont.

(6) (a) If, before the carrying out of any operation to which this section applies, the person who intends to carry it out applies to the district council for their consent to the operation giving particulars of—

- (i) the operation and the method by which it is to be carried out; and
- (ii) the steps proposed to be taken to reduce the emission of dust from the operation;

and the district council consider that, on the carrying out of the operation in accordance with the application, they would not serve a notice under subsection (2) above in respect of that operation, the district council may give their consent to the operation for the purposes of this section, either unconditionally or subject to such conditions as may be specified in the consent.

(b) In acting under this subsection the district council shall have regard to the matters specified in subsection (3) above.

(c) If the district council do not, within 21 days from the receipt of an application under this subsection, give to the applicant a consent, with or without conditions, which is acceptable to the applicant, he may appeal to the county court.

(d) On any appeal under this subsection the judge may make such order either confirming the refusal of the consent or varying any conditions subject to which the consent has been given or ordering the giving of the consent with or without conditions as he thinks fit but shall not so vary any conditions that they are more onerous than those specified by the district council.

(7) In this section “dust” includes chemicals in solution and grit.

Contraventions
of section 1 of
Clean Air Act
1968.

1968 c. 62.

28. Section 1 of the Clean Air Act 1968 (prohibition of dark smoke from industrial or trade premises) shall have effect in the county as if, in subsection (1)—

- (a) after the words “occupier of the premises” there were inserted the words “and any person who causes or permits the matter to be burnt which gives rise to the emission of dark smoke”; and
- (b) at the end for “£400” there were substituted “level 5 on the standard scale”.

Trees
impeding
natural light to
houses, shops
and offices.

29.—(1) If any tree or shrub impedes or excludes the access of natural light to a dwelling-house, shop or office premises to such an extent as to be prejudicial to the health of the occupiers of the dwelling-house, shop or office premises the district

council may, by notice to the owner of the tree or shrub or to the occupier of the land on which it is growing, require him so to lop or cut it as to remove the cause of such impeding or exclusion.

PART IV
—cont.

(2) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this section as if—

- (a) this section were contained in that Act;
- (b) among the grounds on which an appeal may be brought under subsection (3) of section 290 of the Act of 1936 there were added that it is not reasonably practicable to comply with the notice; and
- (c) for paragraph (f) of the said subsection (3) there were substituted the following paragraph:—

“(f) that the owner or occupier of the dwelling-house, shop or office premises ought to contribute towards the expenses of executing any works required.”.

(3) In exercising its powers under the said section 290 in respect of a tree or shrub which is alleged to impede or exclude the access of natural light to a dwelling-house, shop or office premises, the court shall have regard to the question whether or not immediately after the construction, erection or extension of the dwelling-house, shop or office premises, the tree or shrub or one or more trees or shrubs having a substantially similar effect impeded or excluded the access of natural light thereto and the extent of any such impeding or exclusion.

(4) In this section—

“dwelling-house” means a building or part of a building intended to be occupied as a separate dwelling;

“office premises” has the same meaning as in the Offices, Shops and Railway Premises Act 1963;

1963 c. 41.

“shop” has the same meaning as in the Shops Act 1950.

1950 c. 28.

30.—(1) In this section the expression “separate system of drainage” means a separate system of drains for the conveyance of—

Power to
require
separate
system of
drainage.

(a) soil water and waste water; and

(b) rainwater;

respectively.

(2) (a) Where plans—

(i) of a building; or

(ii) of an extension of a building; or

PART IV
—cont.

- (iii) of an alteration of a building which show that it is intended to provide in the building five or more additional water closets;

1984 c. 55.

are in accordance with building regulations deposited with the district council, the district council may, notwithstanding anything in section 16 of the Building Act 1984, reject the plans unless they show that the building or the extension of the building as proposed to be altered, as the case may be, will be provided with a separate system of drainage; and where plans of an alteration of a building already provided with a separate system of drainage are so deposited, the district council may reject the plans unless they show that such a system will continue to be provided.

(b) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall have effect as if this section were a section of that Act.

(3) Any person aggrieved by the rejection of plans under this section may appeal to a magistrates' court.

Summary
power to
remedy
broken water
closets.

31.—(1) If it appears to the district council that it is immediately necessary in the interests of public health to replace a pan of a water closet which is so broken or damaged as to be unusable they may by notice require the owner or occupier of the premises to remedy the defect within 48 hours from the service of the notice.

(2) If a notice under subsection (1) above is not complied with the district council may themselves carry out the work necessary to remedy the defect and, subject to subsection (3) below, may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.

(3) In proceedings to recover expenses under this section the court may inquire—

- (a) whether any requirement contained in a notice served under subsection (1) above or any work done by the district council was reasonable; and
- (b) whether the expenses incurred by the district council in doing the work or any part thereof ought to be borne wholly or partly by the person on whom the notice was served;

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part thereof to be borne by any person other than the defendant

in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

PART IV
—cont.

32.—(1) In this section—

Grease traps.

“grease” includes oil and any matter impregnated with grease or oil; and

“grease trap” means such apparatus as is mentioned in subsection (2) below.

(2) If it appears to a district council, after consultation with the water authority, that any drain or sewer within premises comprising any building in their district is not provided with such apparatus as may be required to prevent the passage of grease from that building into any public sewer, they may, by notice to the owner of the building, require the installation in the drainage system of the building of such apparatus as may be required for that purpose.

(3) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this section as if—

(a) this section were contained in that Act; and

(b) among the grounds on which an appeal may be brought under subsection (3) of section 290 of the Act of 1936 there were added that it is not reasonably practicable to comply with the notice.

(4) (a) A grease trap provided for compliance with this section or any other statutory provision in, or in connection with, any building shall be maintained by the owner of the building in good condition and in efficient working order, and no person shall obstruct or render less efficient any such grease trap or permit the same to be obstructed or rendered less efficient.

(b) If any person, without reasonable excuse, contravenes paragraph (a) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) For the purpose of carrying out any work required to be done by the owner of a building for the provision or maintenance of a grease trap, or things to secure the efficient operation of a grease trap, it shall be lawful for the owner, notwithstanding any provision to the contrary contained or implied in any lease or contract affecting the premises comprising the building, to enter the premises or any part thereof at all reasonable times after giving due notice to the occupier and do all such things therein or thereto as may be necessary or proper in that behalf.

PART IV
—*cont.*

Amendment
of section 22
of Act of
1961.

33. In its application to the county section 22 of the Act of 1961 (cleansing and repair of drains) shall have effect as if—

- (a) after the word “drains” there were inserted the words “private sewers”; and
- (b) at the end there were inserted the following:—

“(2) Where, in the case of a private sewer, there is more than one applicant, the charge may be recovered from the applicants in such proportions as, in case of dispute, the local authority may determine but without prejudice to the rights and obligations between themselves of the applicants and of any other owners and occupiers of the premises in question.”.

Power to
examine and
test flues
believed to
be defective.

34.—(1) Where it appears to a district council that there are reasonable grounds for believing that a flue in a building in the district is in such a state as to be prejudicial to health or a nuisance to the occupants of the building or of any adjoining building, they may apply any smoke or smell test, and, if as a result of such test they deem it necessary, open such flue for the purpose of examining it internally.

(2) If on examination the flue is found to be in proper condition the district council shall as soon as possible reinstate the same and shall make good any damage done by them.

(3) In this section “flue” means a passage for conveying the products of combustion from an appliance to the open air and for this purpose “appliance” means—

- (a) a heat-producing appliance (including a cooker) which is designed to burn solid fuel, oil or gaseous fuel; and
- (b) an incinerator;

but does not include any appliance consuming electricity or any electrical incinerator.

(4) This section does not apply to—

- (a) premises which are subject to the Alkali, &c. Works Regulation Act 1906 or any class of premises prescribed for the purposes of section 1 (1) (d) of the Health and Safety at Work etc. Act 1974; or
- (b) premises which are within the definition of “factory” in section 175 of the Factories Act 1961 unless the building comprising the factory or in which the factory is situate either contains or immediately adjoins a dwelling.

(5) Nothing in this section shall apply to a flue in any premises in respect of which there is in force for the time being—

- (a) a licence for the public performance of stage plays;

1906 c. 14.

1974 c. 37.

1961 c. 34.

- (b) a licence for public music or dancing or other entertainment of the like kind; PART IV
—cont.
- (c) a licence for a cinematograph exhibition;
- (d) a justices' on-licence as defined in section 1 (2) of the Licensing Act 1964 or a Part IV licence as defined in 1964 c. 26. section 93 of that Act;
- (e) a bingo club licence as defined in paragraph 2 (2) of Schedule 2 to the Gaming Act 1968; 1968 c. 65.

unless the premises either contain or immediately adjoin a dwelling.

(6) Nothing in this section shall apply to a flue in a building used by the gas corporation for the manufacture of gas.

35.—(1) Where a district council are satisfied that, by reason of any injury to, or defect in, any apparatus used for supplying water, gas or electricity to any premises in the district, the premises or any part thereof have ceased to be supplied with water, gas or electricity sufficient for the domestic purposes of the occupants and that there is an urgent need for the supply to be restored, the district council may, without prejudice to any other action which they may be authorised to take under any other enactment, repair or renew the apparatus or execute such works and provide or repair such fittings and do such other things as they may consider necessary to secure that a sufficient supply of water, gas or electricity is restored and recover from the owner or owners of the premises, as the case may be, the expenses necessarily incurred by them in so doing not exceeding in the case of each owner £300 or such greater sum as may be specified in an order made by the Secretary of State by statutory instrument under this section.

Urgent repairs
to water, gas
and electricity
apparatus.

(2) (a) Where the occupier of any premises is also the owner the powers of subsection (1) above shall not be exercised in relation to those premises except with his consent.

(b) Subject to paragraph (a) above, before or, in case of emergency, as soon as possible after exercising the powers of subsection (1) above in relation to any premises, the district council shall (unless his name and address is not ascertainable by reasonable inquiry) give notice to the owner of the intended exercise of those powers or, as the case may be, of their having been exercised.

(c) Except in cases of emergency, admission to any premises shall not be demanded as of right for the purpose of doing any work under subsection (1) above unless not less than 24 hours' notice of the intended entry has been given to the occupier.

PART IV
—cont.

(3) (a) In proceedings to recover expenses under subsection (1) above the court may inquire whether those expenses ought to be borne wholly or in part by some person, being the occupier of the premises in respect of which they were incurred, other than the defendant in the proceedings and, subject as provided in paragraph (b) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.

(b) The court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has, at the instance of the defendant, had due notice of the proceedings and an opportunity of being heard.

(4) The district council may, if they think fit, themselves bear the whole or any part of any expenses recoverable under this section.

(5) The powers conferred by this section shall not be exercisable in relation to any apparatus belonging to the electricity board or the gas corporation or to any water meter of the water authority or any other apparatus used for supplying water other than a water fitting in the premises supplied or the supply pipe to those premises, “water fitting” and “supply pipe” having the meanings given by Schedule 3 to the Water Act 1945.

1945 c. 42.

(6) (a) Except as provided in subsection (7) below, the powers conferred by this section shall not be exercisable in relation to any premises without the consent of the water, gas or electricity undertakers, as the case may require, within whose limits of supply the premises are situated, which consent shall not be unreasonably withheld, and in giving their consent the undertakers—

- (i) may attach thereto such reasonable conditions as they think fit; and
- (ii) may, without prejudice to any action or proceedings which they may take under any other enactment, elect to carry out on behalf of the district council any repair, renewal or other works proposed by the district council, in which case the expenses reasonably incurred by the undertakers in so doing shall be repaid to them by the district council.

(b) Any difference which may arise between any water, gas or electricity undertakers and a district council under this subsection, other than a difference as to the meaning or construction thereof, shall be determined by arbitration.

(7) In case of emergency subsection (6) above shall not apply but, in any such case, as soon as possible after exercising the

powers of subsection (1) above in relation to any premises the district council shall notify the water, gas or electricity undertakers, as the case may require, within whose limits of supply the premises are situated.

PART IV
—cont.

36.—(1) In this section “wall” includes a fence other than a hedge and a door in a wall and “garden” includes a court, courtyard or yard.

Repair of
walls, etc.,
of passages
and gardens.

(2) If in the case of any passage attached to or forming part of one or more houses (whether or not it is also attached to or forms part of a commercial or industrial building) any party or boundary wall of the passage—

(a) has collapsed or been pulled down; or

(b) is in danger of collapsing; or

(c) is otherwise in a ruinous or dilapidated condition;

and is thereby a source of serious inconvenience to the inhabitants of the house or, if more than one, of any of the houses, to any person entitled to be in the passage or to the public the district council may by notice require the owner or, in the case of a building other than a house, the occupier of any of the buildings to which the passage is attached or of which it forms part to carry out such works (including the rebuilding, reinstatement or repair of the wall) as are reasonably necessary.

(3) If in the case of any garden attached to or forming part of more than one house any party or boundary wall of the garden (not being a wall forming also the boundary of a passage)—

(a) has collapsed or been pulled down; or

(b) is in danger of collapsing; or

(c) is otherwise in a ruinous or dilapidated condition;

and is thereby a source of serious inconvenience to the inhabitants of any of the houses, the district council may by notice require the owner of any of the houses to which the garden is attached or of which it forms part to carry out such works (including the rebuilding, reinstatement or repair of the wall) as are reasonably necessary:

Provided that in the case of a wall which is not a source of danger the district council shall not exercise their powers under this subsection unless requested to do so by an occupier of one of the houses.

(4) Where any such passage or garden is separated by a party or boundary wall from another such passage or garden, notice under this section may be served on the owner or occupier of any of the buildings to which either of the passages or gardens is attached or of which it forms part and the works which may be required shall include the provision or maintenance of proper support for the wall.

PART IV
—cont.

(5) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this section as if—

- (a) this section were contained in that Act; and
- (b) among the grounds on which an appeal may be brought under subsection (3) of section 290 of the Act of 1936 there were added that it is not reasonably practicable to comply with the notice.

Maintenance
of and access
to bulk refuse
containers.

37.—(1) Where the owner or occupier of any premises within a district from which the district council collect refuse provides a bulk refuse container for holding the refuse for the purpose of such collection, or where the district council at the request of the owner or occupier provide a bulk refuse container for the purpose of such collection, the district council may by notice require him to provide and maintain to the satisfaction of the district council a good and sufficient stand or base for the bulk refuse container, and to provide and maintain to the satisfaction of the district council such means of access from a highway to the bulk refuse container as are sufficient to allow the passage and to bear the weight, with a full bulk refuse container, of any trolley or other vehicle of the district council constructed to convey bulk refuse containers to and from refuse vehicles.

(2) A notice under subsection (1) above may require the owner or occupier of the premises to execute such work and to make such provision in regard to the matters aforesaid as may be necessary including, where appropriate, provision for a dropped kerb to facilitate the wheeling of bulk refuse containers.

(3) The provisions of section 290 of the Act of 1936 shall apply to notices given under this section as they apply to the notices mentioned in subsection (1) of that section, and subsection (3) (f) of that section as so applied shall have effect as if—

- (a) references to premises included references to parts of premises;
- (b) the reference to work for the common benefit of the premises in question and other premises included a reference to work for the sole benefit of those other premises; and
- (c) the reference to contribution towards the cost of the works included a reference to undertaking the whole of that cost.

38. A district council may at the request of the owner or occupier of any premises within their district provide and maintain at such premises a bulk refuse container on such terms and conditions and at such monthly, quarterly or annual charge as may be agreed between such owner or occupier and the district council.

PART IV
—cont.
Provision of
bulk refuse
containers.

39.—(1) A person who places, or allows to be placed, anything to which this section applies—

Restriction
on use of
dustbins.

(a) in a dustbin or receptacle used for the reception of refuse to be removed by or on behalf of a district council; or

(b) in a receptacle for refuse or litter provided by a district council under section 5 (1) of the Litter Act 1983;

1983 c. 35.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) This section applies to—

(a) any corrosive or explosive substance;

(b) anything that gives rise to a substantial risk of injury to a person dealing with refuse.

(3) A person shall not be guilty of an offence under this section in respect of anything other than a corrosive or explosive substance if that thing was placed in the dustbin or receptacle so packed or otherwise treated as to avoid substantial risk of injury to the persons dealing with the refuse.

(4) It shall be a defence for a person charged with placing, or allowing to be placed, a corrosive or explosive substance in a dustbin or receptacle to prove that he did not know and had no reasonable means of knowing that the substance was corrosive or, as the case may be, explosive.

40.—(1) In this section—

“front garden” means so much of the curtilage of a dwelling-house fronting on a street as lies between that street and—

Prohibition of
parking of
goods
vehicles in
front
gardens.

(a) any building line within the curtilage prescribed under section 74 of the Act of 1980 or any other enactment; or

(b) if there is no such building line, a line, parallel to the street, which passes through the forwardmost part of any wall of the dwelling-house nearest to the street;

“goods vehicle” means a vehicle, whether mechanically propelled or not, which is constructed or adapted for the carriage of goods and has a maximum gross weight which exceeds 3.5 tonnes;

PART IV
—cont.

S.I. 1982/1879.

“maximum gross weight” has the meaning given to it by article 4 (c) of the Traffic Signs (Amendment) Regulations 1982;

“residential street” means a street predominantly fronted either by residential or mainly residential buildings or by such buildings and schools or public open spaces.

(2) (a) If it appears to a district council whether in consequence of a representation made to the district council in accordance with paragraph (b) below or otherwise, that the amenities of any part of the district are prejudicially affected by the habitual use of any land within the front garden of any dwelling-house in a residential street in the district for the parking in the open of one or more goods vehicles, the district council may, by an order made in accordance with this section, prohibit the use of land within the front gardens of the dwelling-houses in the street, or any part thereof specified in the order, for the parking in the open of goods vehicles.

(b) A representation under paragraph (a) above shall be made in writing and signed by local government electors residing in not less than five dwelling-houses, being dwelling-houses in the street concerned, or dwelling-houses in any other residential street which are within 100 metres of the land in question.

(3) (a) If the district council propose to make an order under this section, they shall—

- (i) publish a notice stating the effect of the proposal in a newspaper circulating in the district; and
- (ii) post copies of the notice in a conspicuous position at each end of each street or part thereof to which the proposal relates; and
- (iii) serve a copy of the notice and a statement of the nature of the representations (if any) made under subsection (2) above on the owner or occupier of every dwelling-house in the street or part thereof to which the proposal relates.

(b) The notice under paragraph (a) above shall state where the proposal can be inspected and copies purchased and that objections to the order may be made in writing to the district council before such day, not earlier than 12 weeks after the council have complied with paragraph (a) above, as shall be specified in the notice.

(c) Before making the order the district council shall—

- (i) consider all objections made as provided in paragraph (b) above and the availability of parking facilities;
- (ii) consult the chief officer of police, the highway authority (if any) for the street in question and, if the county council are not the highway authority or if the street is not a highway, the county council; and

- (iii) afford to the owner or occupier of every dwelling-house in the street or part thereof to which the draft order relates, being a person who has made objection, an opportunity of being heard by a committee or sub-committee of the district council.

(4) If, after considering objections made under subsection (3) above, the district council determine to make the order, they may make the order in the terms of the draft, or in those terms as modified to meet in whole or in part all or any of the objections but if the district council consider that any person may be adversely affected by any such modification they shall, before making the order, take such steps as appear to them to be appropriate for informing the persons likely to be so affected of the modification, for giving those persons an opportunity to make representations and for ensuring that any such representations are duly considered by the district council.

(5) When an order has been made by the district council under this section they shall publish notice of it, and of the right of appeal under subsection (9) below, in the manner required by subsection (3) (a) (i), (ii) and (iii) above for notice of a proposal.

(6) (a) Any order made under this section shall come into operation at the expiration of the period of three months after the district council have published notice of the making of the order pursuant to subsection (5) above or, if an appeal is lodged under subsection (9) below, when the appeal is disposed of or withdrawn or fails for want of prosecution and the district council shall publish notice of the date of coming into operation of any such order in the manner required by subsection (3) (a) (i), (ii) and (iii) above as soon as may be after that date is known.

(b) Any such order shall have effect for such period, not exceeding five years, as the district council may determine, but this paragraph does not prejudice the power of the district council to make a further order.

(7) A district council may revoke an order made under this section and may vary an order so made so as to diminish the scope thereof.

(8) An order under this section shall be a local land charge.

(9) (a) A person who is aggrieved by an order under this section may, within 28 days after the first publication of the notice of the making of the order under subsection (5) above, appeal to the county court.

(b) On an appeal to the county court under this subsection the judge may make such order, either confirming or quashing or varying the order as he thinks fit, but shall not so vary the order that it is more onerous than the order made by the district council.

PART IV
—cont.

(10) Nothing in any order made under this section shall prevent the waiting of a goods vehicle on any land within the front garden of a dwelling-house for such period as is reasonably necessary for loading or unloading or for dealing with a breakdown or other emergency.

(11) Nothing in this section shall apply to any vehicle being held ready for use in an emergency by statutory undertakers.

(12) If any person uses land within the front garden of a dwelling-house in contravention of an order under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(13) This section shall apply in the city as from the commencement of this Act and in any other district as from the appointed day.

Defacing of
streets, etc.

41.—(1) The provisions of section 132 of the Act of 1980 (unauthorised marks on highways) shall apply in relation to—

- (a) the surface of streets in the county which are not highways as they apply in relation to the surface of highways in the county;
- (b) trees, structures and works on or in streets in the county which are not highways as they apply to trees, structures and works on or in highways in the county; and
- (c) trees, structures and works adjoining highways in the county or adjoining any streets in the county which are not highways:

Provided that, in relation to any tree, structure or works adjoining a highway in the county or adjoining a street in the county which is not a highway, the provisions of the said section 132 shall not apply to any picture, letter, sign or other mark which has been painted or otherwise inscribed or affixed upon the tree, structure or works by or with the consent of the owner or occupier thereof.

(2) The district council or the parish council may exercise the powers of subsection (2) of the said section 132 in relation to any picture, letter, sign or other mark which has been painted or otherwise inscribed or affixed upon the surface of a street which is not a highway or upon any tree, structure or works adjoining a highway or on, in or adjoining any such street.

(3) The district council or the parish council, as the case may be, may recover any expenses incurred by them under subsection (2) above from any person who contravenes the provisions of the said section 132, as extended by this section;

and the court by whom a person is convicted may by order require him to pay any such expenses to the district council or the parish council, as the case may be.

PART IV
—cont.

(4) The district council or the parish council may on such terms and conditions as may be agreed with the owner or occupier of any premises, remove or obliterate any picture, letter, sign or other mark inscribed or painted on any wall, fence, post or other structure on those premises which is visible from a street although not adjoining it.

PART V

PUBLIC ORDER AND PUBLIC SAFETY

42.—(1) Any person who in a district sells, or offers or exposes for sale anything from any cart, barrow or other vehicle, or any stand, shall have his full name and address painted or inscribed on the cart, barrow, vehicle or stand in such a way as to be legible to members of the public.

Names on
stands of
hawkers.

(2) Where any person sells, or offers or exposes for sale anything from a stand in a market held by the Leicester council in the Market Place in the city, it shall be sufficient compliance with subsection (1) above if that person has his full name and an identifying number allocated by the Leicester council painted or inscribed on the stand in such a way as to be legible to members of the public.

(3) Any person who, without reasonable excuse, contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

43.—(1) The organiser of an occasional sale in a district shall have his full name and address legibly displayed in a prominent position on the premises where the sale is held and shall set out such particulars on all notices, leaflets and posters announcing the sale.

Occasional
sales.

(2) Any person who offers or exposes goods for sale at an occasional sale shall have his full name and address legibly displayed in a prominent position on or near any stall or container used by him for the purposes of such sale or, if he uses no such stall or container, near the goods so offered or exposed for sale.

(3) Any person who, without reasonable excuse, contravenes any provision of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART V
—cont.

(4) (a) In this section “occasional sale” means an event at which articles are for private gain offered or exposed for sale to the public (including any kind of auction or sale by way of competitive bidding) by one or more sellers, but does not include—

- (i) a market held by virtue of a grant from the Crown or of prescription or under statutory authority; or
- (ii) a market wholly or mainly for the sale by auction of farm livestock or deadstock or the contents of a building.

(b) For the purposes of this section the organiser of an occasional sale includes any person who—

- (i) charges admission to the premises where the occasional sale is held; or
- (ii) is entitled, as a person promoting the occasional sale or as the agent, licensee or assignee of a person promoting the occasional sale, to payment for goods sold or services rendered to persons attending the occasional sale or for the granting of rights to other persons to sell goods or services to persons attending the occasional sale.

Policing and
control of
pedestrian
ways.

44.—(1) Where there is in a district a way or place laid out or otherwise suitable for public use on foot, but not subject to a public right of way, the district council may by resolution, with the consent in writing of all persons interested in the land comprising that way or place, declare it to be a pedestrian way.

(2) In this section and in the enactments specified in Schedule 2 to this Act as applied and having effect for the purposes of this section, “pedestrian way” means a way or place declared to be a pedestrian way under subsection (1) above.

(3) For purposes of, or relating to, criminal law, and the jurisdiction of the justices and of the police, a pedestrian way shall be deemed to be a highway.

(4) The district council may make byelaws for regulating the following matters in relation to all pedestrian ways within the district or in relation to any such pedestrian way or any part thereof:—

- (a) the times at which a pedestrian way may be closed to the public;
- (b) the conduct of persons using a pedestrian way;
- (c) the use of invalid chairs or other wheeled vehicles on a pedestrian way;
- (d) the placing or retention of anything (including any structure or projection) which may lawfully be placed or retained in, on or over any pedestrian way;

Provided that not less than two months before making byelaws in relation to any pedestrian way, or any part thereof, under this section, not being byelaws in relation to all pedestrian ways within the district, the district council shall display in a conspicuous position on or adjacent to the pedestrian way a notice of their intention to consider the making of such byelaws, and such notice shall specify the place where a copy of the proposed byelaws may be inspected and the date by which any representations should be made to the district council (not being less than six weeks after the date on which the notice was first displayed as aforesaid), and the district council shall take into consideration any representations so made.

PART V
—cont.

(5) Without prejudice to subsection (3) above the enactments specified in Schedule 2 to this Act shall apply and have effect for the purpose of this section as if each of those enactments were in terms re-enacted in this Act, subject to the modifications set out opposite thereto in the said schedule.

(6) Nothing in this section or any byelaw made or resolution passed under this section shall affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system as defined in paragraph 1 (1) of Schedule 4 to the Telecommunications Act 1984.

1984 c. 12.

PART VI

FIRE PRECAUTIONS

45.—(1) A fire officer authorised in writing by the chief fire officer of the fire authority may on giving (except in a case of emergency) not less than 48 hours' notice to the secretary of a club in the county registered under the Licensing Act 1964, on production of his authority, enter and inspect as regards any matter affecting fire risks the premises occupied by the club at any reasonable time on such day as may be specified in the notice.

Fire precautions in registered clubs.
1964 c. 26.

(2) Nothing in this section shall apply to any premises occupied by a club licensed under the Gaming Act 1968.

1968 c. 65.

(3) This section shall cease to have effect upon the designation by order under section 1 or regulations made under section 12 of the Fire Precautions Act 1971 of the use of premises for purposes of a registered club as a use for which a fire certificate is required.

1971 c. 40.

46.—(1) This section applies to any substance likely to involve special hazard to persons engaged in operations for the purposes of the extinction of fire and the protection of life and property in the case of fire.

Prescription of signs to be used on certain buildings.

PART VI
—cont.

(2) The fire authority may prescribe standard uniform signs or symbols or warning notices in a form approved by the Secretary of State clearly indicating the nature of any substance to which this section applies and the danger from fire arising therefrom.

(3) The fire authority may, by notice, require the occupier of any part of a building in the county used for the manufacture or storage of any such substance to affix, within such reasonable time as is specified in the notice, and thereafter to keep fixed in a conspicuous position or positions in or on the part of the building used for such manufacture or storage, the appropriate sign, symbol or notice prescribed under subsection (2) above.

(4) Any person who fails to comply with the requirements of the fire authority under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and to a daily fine not exceeding £20.

(5) (a) The fire authority shall not exercise the powers of subsection (3) above in relation to any part of a building on operational land of the generating board or the electricity board without the consent of the board concerned, which consent shall not be unreasonably withheld.

(b) Any question whether a consent required by this section has been unreasonably withheld shall be determined by the Secretary of State.

Fire alarms.

47.—(1) This section applies to a fire alarm system for the protection of any premises in the county and connected to the telecommunication system of British Telecommunications plc through a device commonly known as a digital or an auto-dialler which, in the event of an alarm, connects without manual intervention to the emergency network of that system of British Telecommunications plc.

(2) (a) As from the appointed day in the county no person shall install or cause to be installed a fire alarm system to which this section applies unless there has been served on the fire authority notice of intention in that behalf, specifying the text of the pre-recorded message to be passed by the system, and the fire authority have by notice to that person approved the text as sufficiently identifying the premises which the system is intended to protect.

(b) Unless within 14 days after service of a notice under paragraph (a) above the fire authority have given notice to the person serving that notice that they disapprove of the text of the pre-recorded message the fire authority shall be deemed to have approved the same.

(3) If any person contravenes subsection (2) (a) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART VI
—cont.

48.—(1) This section applies to the storage of any highly flammable substance being a substance which, when tested by a method approved by the Secretary of State, gives off a flammable vapour at a temperature less than 21 degrees Celsius other than—

Buildings
used for
storage of
flammable
substances.

- (a) petroleum spirit as defined in the Petroleum (Consolidation) Act 1928; 1928 c. 32.
- (b) any substance to which section 1 or 2 of that Act for the time being applies;
- (c) celluloid or cinematograph film as defined in the Celluloid and Cinematograph Film Act 1922; 1922 c. 35.
- (d) anything contained in a pressure governor, meter, booster or other apparatus for or in connection with the supply of gas by the gas corporation; and
- (e) substances stored in separate glass, earthenware or metal vessels, in good condition and securely closed or stoppered, containing not more than one half-litre each, where the aggregate quantity of all such substances stored in any building does not exceed 14 litres.

(2) If the county council are of opinion that any highly flammable substance to the storage of which this section applies is stored in a building in the county and that the storage is of such a quantity and of such a kind as to constitute a fire hazard to persons residing or working in, or resorting to, the building, they may, by notice to the occupier of the building, or of any part of it in which the substance is stored require him—

- (a) to discontinue, after such date as shall be specified in the notice, the whole or part, as shall be so specified, of the storage constituting the hazard; or
- (b) if the storage is not to be wholly discontinued, to do within such reasonable time as may be specified in the notice one or more of the following things:—
 - (i) install such fire alarms and fire-fighting appliances as may be so specified;
 - (ii) provide such means of escape in case of fire as may be so specified;
 - (iii) put up such notices indicating the danger from fire as may be so specified.

(3) An occupier shall not be required under subsection (2) (b) (ii) above to make any structural alteration of a building for the purpose of providing means of escape in case of fire—

- (a) other than an alteration which might have been required under building regulations if at the time of

PART VI
—cont.

the notice plans of the building were deposited in accordance with those regulations;

- (b) subject to subsection (4) below, in breach of any covenant or obligation relating to the building unless the person entitled to enforce the covenant or obligation consents to the alteration.

(4) (a) If it appears to the Secretary of State, on a representation made by any person, that compliance with any requirement of a notice served under subsection (2) (b) (ii) above would involve a breach of a covenant or obligation relating to the building, he shall direct that the occupier be not required to comply with that requirement until—

- (i) the Secretary of State has given the person entitled to enforce the covenant or obligation, and the occupier, an opportunity of being heard by a person appointed by the Secretary of State for the purpose; and

- (ii) the Secretary of State has made an order under paragraph (b) below.

(b) After considering the report of the person appointed under paragraph (a) above, the Secretary of State shall make an order either confirming the requirement with or without modification or quashing it, and where he confirms it the occupier shall thereupon be liable to comply with the requirement or, as the case may be, the requirement as modified.

(5) A person served with a notice under subsection (2) above may appeal to the Secretary of State on any of the following grounds:—

- (a) that the requirement is not justified by the terms of this section;

- (b) that there has been some informality, defect or error in or in connection with the notice;

- (c) that the county council have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are unreasonable in character or extent;

- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

- (e) that the owner of the building, or any other person having an interest therein, should contribute towards the cost of the execution of the works;

and on an appeal under this section the Secretary of State may dismiss or allow the appeal or may vary the decision of the county council against which the appeal is made.

(6) The county council shall, as soon as a person has complied with a notice served under subsection (2) above, issue to him a certificate of compliance.

PART VI
—cont.

(7) The certificate issued under subsection (6) above shall, except where the storage constituting the fire hazard is wholly discontinued, be a licence to constitute a fire hazard by the storage, in the building or part of the building to which the certificate relates, of substances of such a kind and in such quantity and stored in such a manner as shall be stated in the certificate.

(8) If, while a certificate is in force in respect of a building or part of a building, the occupier applies to the county council for an alteration of the certificate, the council may amend the certificate, and, if they refuse the application in whole or in part, the applicant may appeal to the Secretary of State, and the Secretary of State may allow the appeal in whole or in part or reject it. If he allows the appeal he shall give such directions for the amendment of the certificate as he considers appropriate.

(9) A person who—

- (a) contravenes a notice under subsection (2) above, in its original form or, as the case may be, a notice under subsection (2) (b) (ii) above as modified by the Secretary of State under subsection (4) above; or
- (b) stores anything in a building or part of a building in contravention of the terms of a certificate then in force in respect of the building; or
- (c) refuses to permit a person to comply with a notice served under subsection (2) above, in its original form or, as the case may be, a notice under subsection (2) (b) (ii) above as modified by the Secretary of State under subsection (4) above;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this section references to a building are references to the building and its curtilage.

(11) The county council shall not serve a notice under subsection (2) above in respect of a building or part of a building—

- (a) put to a use in respect of which a fire certificate is required under the Fire Precautions Act 1971; or 1971 c. 40.
- (b) in respect of which a fire certificate issued by the Health and Safety Executive is for the time being required under the Health and Safety at Work etc. Act 1974. 1974 c. 37.

49.—(1) This section applies to a parking place comprising or within a building which provides—

- (a) parking space for more than three motor vehicles, being a space of which any part of the floor is situated

Parking places:
safety
requirements.

PART VI
—cont.

more than 1.2 metres below the surface of the ground adjoining any wall of the building; or

(b) parking space for more than 20 motor vehicles; not being in either case a parking place for motor vehicles for the use only of the occupants of a single private dwelling-house.

(2) Where—

(a) plans of any proposed work are deposited with a district council in accordance with building regulations; and

(b) the plans show that the proposed work will include or consist of the construction, extension or alteration of a building for the purpose of using all or part of it as a parking place to which this section applies;

1928 c. 32.

the district council shall reject the plans unless they are satisfied, after consultation with the fire authority, and, in a case where a licence under the Petroleum (Consolidation) Act 1928 will be required in respect of the building, after consultation with the licensing authority under that Act (if not the fire authority), that they may properly consent to the construction, extension or alteration of the building, either unconditionally, or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (3) below for preventing or reducing danger from fire or other danger to life.

(3) The conditions subject to compliance with which plans may be passed under subsection (2) above are conditions with respect to the following matters relating to the parking place:—

(a) construction of the vehicular approaches;

(b) means of access for fire brigade appliances and personnel;

(c) means of ingress and egress, including the provision of appropriate signs;

(d) means of ventilation;

(e) safety of electrical, mechanical and heating equipment;

(f) provision of an emergency lighting system;

(g) fire protection, fire alarms and fire-fighting equipment and appliances; and

(h) prevention of the admission to drains of flammable substances.

1984 c. 55.

(4) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of that Act.

(5) Any person aggrieved by the action of the district council under subsection (2) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(6) If any conditions, subject to compliance with which plans have been passed under subsection (2) above or under any corresponding statutory provision repealed by this Act, have not been or are not being complied with, the district council may by notice to the owner or occupier of the parking place prohibit or, as the case may be, require the cessation of its use for the parking of vehicles until those conditions have been complied with.

(7) If it appears to the district council, after consultation with the fire authority, that any building or part of a building in the district—

- (a) has been first brought into use after the commencement of this Act as a parking place to which this section applies or, being an underground parking place within the meaning of section 63 (Interpretation and powers of entry for purposes of last two foregoing sections) of the Act of 1968, was first brought into use in the city after the commencement of section 61 (Underground parking places) of the Act of 1968;
- (b) has been so brought into use in circumstances in which no notice had to be given, or plans, sections, specifications or written particulars deposited, in accordance with building regulations; and
- (c) is not so constructed or equipped that, if plans of the work consisting of, or including, the parking place had been deposited under subsection (2) above, the district council would have given their consent under that subsection without specifying conditions with respect to any of the matters specified in paragraphs (b) to (h) of subsection (3) above;

they may, for the purpose of preventing or reducing danger from fire or other danger to life, by notice to the owner or occupier of the parking place, require compliance with—

- (i) such conditions with respect to any of those matters as may be specified in the notice; and
- (ii) for the purpose of restricting the use of the parking place until those conditions have been complied with, such other conditions as may be so specified.

(8) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (7) above as if—

- (a) references in those provisions to that Act included reference to this subsection;
- (b) for the reference in section 290 of the Act of 1936 to the court there were substituted reference to the Secretary of State; and

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—cont.

(c) in section 290 (6) the words from “and, without prejudice” to the end were omitted.

(9) Any person on whom notice is served under subsection (7) above in respect of any parking place owned or occupied by him, who uses the parking place or permits it to be used for the parking of vehicles in contravention of the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) Any person on whom notice is served under subsection (7) above in respect of any parking place owned or occupied by him, who contravenes any requirement specified in the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act, the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

1928 c. 32. (12) (a) In the case of a building in respect of which a licence under section 2 or 3 of the Petroleum (Consolidation) Act 1928 is in force or in respect of which application for such a licence has been made before deposit of such plans as are referred to in subsection (2) above, no conditions shall be specified under this section in respect of any matter which may be regulated by such a licence.

(b) Subject to paragraph (a) above, where plans in respect of any building have been passed subject to compliance with conditions specified under this section, no conditions shall be attached to any licence in respect of that building under section 2 or 3 of the said Act of 1928 which conflict with the conditions so specified.

Access for
fire brigade.

50.—(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless, after consultation with the fire authority, they are satisfied that the plans show—

(a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and

(b) that the building or, as the case may be, the extension, will not render inadequate any existing means of access for the fire brigade to a neighbouring building.

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance

of planning permission granted upon an application made under the Act of 1971 unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

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—cont.

(3) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of that Act. 1984 c. 55.

(4) Any person aggrieved by the rejection of plans under this section may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire-fighting purposes by members of one or more fire brigades and their appliances.

51.—(1) A district council may, after consultation with the fire authority, make byelaws with regard to structures to which this section applies for the purpose of securing protection against fire and the safety of persons resorting thereto, including byelaws for securing— Byelaws with regard to certain temporary structures.

- (a) the provision of safe and adequate means of ingress to and egress from the structure;
- (b) the provision of first-aid fire-fighting equipment;
- (c) the provision of proper and sufficient passages or gangways in the structure and between the structure and another building or structure;
- (d) the stability of the structure; and
- (e) the proper arrangement of any seating accommodation to be provided in the structure.

(2) (a) An authorised officer of the district council or any officer of the fire authority, in either case on producing, if so required, a duly authenticated document showing his authority, or any police constable may at all reasonable times enter upon, inspect and examine any structure to which this section applies and any land giving access thereto for the purpose of ascertaining whether there is, or has been, in or in connection with the structure, a contravention of the provisions of any byelaw made under this section.

(b) Subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply in respect of entry to a structure and any land giving access thereto for the purposes of this subsection as they apply to entry to premises for the purpose of subsection (1) of that section.

(3) This section applies to any tent, marquee or other similar structure which is erected in a district and to which the public

PART VI
—cont.

are admitted, whether with or without any charge for admission, for the purposes of or in connection with any fair, show, exhibition, game, sport or athletic or other contest or public entertainment or any political, religious or other public meeting:

Provided that this section shall not apply to any tent, marquee or structure erected for the purposes of or in connection with a pleasure fair as defined by section 75 of the Act of 1961.

(4) Nothing in this section affects any requirement to obtain approval or any other obligation imposed by, or by virtue of, any other enactment.

Fire
precautions
in high
buildings.

52.—(1) Where—

- (a) plans are deposited with a district council in accordance with building regulations in respect of any proposed work or material change of use of a building; and
- (b) the plans show that the proposed work will include or consist of the construction, extension or alteration of, or, as the case may be, that the building is, a building of which the floor of any storey is more than 18.3 metres above the surface of the ground on any side of the building;

the district council shall reject the plans unless they are satisfied, after consultation with the fire authority, that they may properly consent to the construction, extension, alteration or, as the case may be, the change of use of the building, either unconditionally, or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (2) below for preventing the outbreak or spread of fire in or from the building or reducing danger from fire in the building.

(2) The conditions subject to compliance with which plans may be passed under subsection (1) above are conditions with respect to the provision and maintenance of such of the following as may, after consultation with the fire authority, appear to the district council to be necessary:—

- (a) automatic fire alarms (that is to say, devices which, without manual intervention, originate an alarm of fire) or other fire alarms;
- (b) fire extinguishing systems;
- (c) effective means of removing smoke in case of fire;
- (d) adequate means of access for fire brigade appliances and personnel.

(3) Paragraphs (a) and (b) of subsection (2) above shall not apply to any building in respect of which a fire certificate issued by the Health and Safety Executive is for the time being required under the Health and Safety at Work etc. Act 1974. PART VI
—cont.
1974 c. 37.

(4) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of that Act. 1984 c. 55.

(5) A person aggrieved by the action of the district council under subsection (1) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(6) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act, the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

(7) In the case of a building or part of a building used or to be used only by the Post Office or, as the case may be, British Telecommunications plc for purposes which include use as a postal sorting office or for the accommodation or support (other than by way of storage only) of apparatus used for the operation of telecommunication services, a condition imposed under this section with respect to automatic fire alarms or fire extinguishing systems shall be of no effect if it conflicts with the precautions described in a code of practice (including appendices) issued by the Property Services Agency of the Department of the Environment which is then applicable to any such use of the building or part of the building.

53.—(1) In this section—

- (a) reference to the use of a building for a purpose to which this section applies is a reference to the use of any building for the purpose of storing or depositing goods or materials where more than 7,000 cubic metres of the building are so used, not being the use for the parking of vehicles of a parking place to which section 49 (Parking places: safety requirements) of this Act applies;
- (b) a change of use of a building from use for the storage of goods or materials of the kind specified in any condition imposed in relation to that building under subsection (3) (d) below, to use for the storage of goods or materials of another kind, shall be taken to be a material change of use of the building.

Fire precautions in large storage buildings.

(2) Where—

- (a) plans are deposited with a district council in accordance with building regulations in respect of any proposed work or material change of use of a building; and

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—cont.

- (b) the plans show that the proposed work will include or consist of the construction, extension or alteration of a building used, or to be used, for a purpose to which this section applies or, as the case may be, the change of use is for use for a purpose to which this section applies;

the district council shall reject the plans unless they are satisfied, after consultation with the fire authority, that they may properly consent to the construction, extension, alteration or change of use of the building, either unconditionally or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (3) below for preventing the outbreak or spread of fire in or from the building or reducing danger from fire in the building.

(3) The conditions subject to compliance with which plans may be passed under subsection (2) above are conditions with respect to any of the following matters relating to the building in respect of which those plans are deposited:—

- (a) the division of the building or any part of the building into compartments with a cubic extent not exceeding 7,000 cubic metres by compartment walls or compartment floors, or by both such walls and floors (including any openings in such walls and floors), being walls and floors having a fire resistance of not less than two hours for the purposes of building regulations;
- (b) the provision of not less than two hours' fire resistance for any external wall of the building which encloses the storage space within the building used for the purpose to which this section applies, or is at a distance from that space less than the height of that space as ascertained in accordance with subsection (11) (a) below, due allowance being made for unprotected areas of the wall permitted for the purposes of building regulations;
- (c) the vertical extension of any such walls as are referred to in paragraph (a) or (b) above to such height above the roof of the building as may be required to prevent the spread of fire from a building of which the roof has a fire resistance of less than two hours for the purposes of building regulations;
- (d) the kind of goods or materials to be stored in any such storage space in respect of which consent is given;
- (e) except where the first use to which any premises constituting or comprised in the building or, as the case may be, the building as extended or altered, will be put, after the proposed work or change of use has

been carried out, will be a use in respect of which a fire certificate is for the time being required under the Fire Precautions Act 1971, the means of ingress to, and egress from, the building or any part of the building, including provision for safe ingress and egress in case of emergency;

PART VI
—cont.
1971 c. 40.

(f) the provision and maintenance of such of the following as may, after consultation with the fire authority, appear to the district council to be necessary:—

(i) automatic fire alarms (that is to say, devices which, without manual intervention, originate an alarm of fire) or other fire alarms;

(ii) fire extinguishing systems;

(iii) effective means of removing smoke in case of fire;

(iv) adequate means of access for fire brigade appliances and personnel.

(4) (a) To the extent to which any conditions imposed by the district council in relation to any building in respect of the matters specified in subsection (3) (e) above conflict with the requirements of section 9A of the Fire Precautions Act 1971, those conditions shall not have effect; and to the extent to which any conditions imposed by the district council under this section in relation to any building in respect of the matters specified in subsection (3) (f) above conflict with any conditions imposed in relation to that building in respect of the matters specified in subsection (2) of section 52 (Fire precautions in high buildings) of this Act, those conditions imposed under this section shall not have effect.

(b) Sub-paragraphs (i) and (ii) of paragraph (f) of subsection (3) above shall not apply to any building in respect of which a fire certificate issued by the Health and Safety Executive is for the time being required under the Health and Safety at Work etc. Act 1974.

1974 c. 37.

(5) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of that Act.

1984 c. 55.

(6) A person aggrieved by the action of the district council under subsection (2) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(7) If it appears to the district council, after consultation with the fire authority, that any building in the district—

(a) has been first brought into use after the commencement of this Act for a purpose to which this section applies;

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—cont.

- (b) has been so brought into use in circumstances in which no notice had to be given, or plans, sections, specifications or written particulars deposited, in accordance with building regulations; and
- (c) is not so constructed or equipped that, if plans of the work consisting of, or including, the building had been so deposited, the district council would have passed the plans without specifying conditions with respect to any of the matters specified in subsection (3) above;

they may, for the purpose of preventing the outbreak or spread of fire in or from the building or reducing danger from fire in the building, by notice to the owner or occupier of the building require compliance with—

- (i) such conditions with respect to any of those matters as may be specified in the notice; and
- (ii) for the purpose of restricting the use of the building until those conditions have been complied with, such other conditions as may be so specified.

(8) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (7) above as if—

- (a) references in those provisions to that Act included reference to that subsection;
- (b) for the reference in section 290 of the Act of 1936 to the court there were substituted reference to the Secretary of State; and
- (c) in section 290 (6) the words from “and to a further fine” to the end were omitted.

(9) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

(10) If any person, without reasonable excuse, obstructs any means of ingress or egress provided in pursuance of a condition imposed under subsection (3) (e) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(11) (a) For the purpose of paragraph (a) of subsection (1) above, the aggregate cubic extent of a building, or part of a building, used for any purpose mentioned in that paragraph (hereafter in this subsection referred to as “the relevant purpose”) shall be ascertained by measuring the volume of the space therein so used contained within—

- (i) the inner finished surfaces of the external walls of the building and any internal enclosing wall which (including any openings therein) has a minimum fire resistance of two hours for the purpose of building regulations, or, on any side where there is no such wall, a vertical plane at the limit of the space used for the relevant purpose;
 - (ii) the upper surface of the lowest floor used for the relevant purpose in the building; and
 - (iii) the under surface of the roof of the building, or any floor over the space used for the relevant purpose which has a minimum fire resistance of two hours for the purpose of building regulations.
- (b) For the purpose of this subsection—
- (i) no deductions shall be made for any space which is used for ingress or egress or for placing or removing contents of the building, or for any space less in width than the height between the floor and roof specified in paragraph (a) (ii) and (iii) above which is between that used for the relevant purpose and an external wall of the building; and
 - (ii) where the part of the space used for the relevant purpose, when ascertained in accordance with paragraph (a) above, consists of a number of separate spaces, those spaces and any intervening spaces used for any other purpose shall, except as provided in sub-paragraph (iii) below, be taken as one space wholly used for the relevant purpose; but
 - (iii) there shall be excepted from sub-paragraph (ii) above any space which is separated from another space by a distance, or by walls or floors, adequate to prevent a spread of fire to or from that other space.

54.—(1) If it appears to a district council, after consultation with the fire authority, that a building to which this section applies is not provided with such means of escape in case of fire as the district council, after such consultation, deem necessary from each storey whose floor is more than 4.5 metres above the surface of the street or ground on any side of the building, the district council shall by notice require the owner of the building to execute such work or make such other provision in regard to the matters aforesaid as may be necessary.

Means of
escape from
fire in certain
buildings.

(2) In so far as a notice under subsection (1) above requires a person to execute works, the provisions of section 290 of the Act of 1936 shall apply in relation to that notice as they apply to the notices mentioned in subsection (1) of that section.

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—cont.

(3) In so far as such a notice requires a person to make provision otherwise than by the execution of works, he shall, if he fails to comply with the notice, be liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a daily fine not exceeding £2.

(4) In proceedings under subsection (3) above, it shall be open to the defendant to question the reasonableness of the district council's requirements.

(5) Where plans of a building or of an extension of a building are in accordance with building regulations deposited with a district council and the building or, as the case may be, the building as extended will be a building to which this section applies, the district council shall reject the plans unless they show that the building or, as the case may be, the building as extended will be provided with such means of escape in case of fire as the district council, after consultation with the fire authority, deem necessary from each storey of which the floor is more than 4.5 metres above the surface of the street or ground on any side of the building.

(6) This section applies to any building which exceeds one storey in height and in which the floor of any upper storey is more than 4.5 metres above the surface of the street or ground on any side of the building and which—

(a) is used in whole or in part as a flat or as tenement dwellings; or

(b) is used wholly or mainly as an inn, hotel, boarding house, hospital, nursing home, boarding school, children's home, aged persons' home or similar institution; or

(c) is used wholly or mainly as a store or warehouse; not being—

1985 c. 13. (i) a building (other than a private dwelling-house) in respect of which a licence under the Cinemas Act 1985 is for the time being in force; or

1971 c. 40. (ii) premises to which section 9A of the Fire Precautions Act 1971 applies; or

1974 c. 37. (iii) premises in respect of which a fire certificate issued by the Health and Safety Executive is for the time being required under the Health and Safety at Work etc. Act 1974; or

(iv) a school owned or maintained by the county council or a children's home or aged persons' home owned or registered by them; or

(v) premises in respect of which the district council are, by virtue of subsection (2) of section 53 (Fire precautions

in large storage buildings) of this Act, under a duty to reject plans deposited with them unless satisfied as mentioned in that subsection.

PART VI
—cont.

(7) Any person aggrieved by the rejection of plans under this section may appeal to a magistrates' court.

(8) Section 72 of the Building Act 1984 shall not have effect in the county. 1984 c. 55.

55.—(1) This section applies to any building in a district to which section 54 (Means of escape from fire in certain buildings) of this Act applies. Maintenance of means of escape from fire.

(2) If it appears to the district council that any means of escape in case of fire provided in or in connection with a building to which this section applies is by reason of alteration, disrepair or obstruction inadequate to serve the purpose for which it was provided, the district council may, after consulting the fire authority, by notice to the owner or occupier of the building require him—

- (a) to execute such work as may be necessary to put the means of escape into good order and repair; and
- (b) to make it efficient and unobstructed.

(3) In so far as a notice under subsection (2) above requires a person to execute works, the provisions of Part XII of the Act of 1936 with respect to appeals against and the enforcement of notices requiring the execution of works shall apply in relation to that notice.

(4) (a) If it appears to the proper officer of the district council that the removal of an obstruction to any means of escape is urgently necessary in the interests of the persons residing in or frequenting a building to which this section applies, he may by notice in writing require the owner or occupier of the building to remove the obstruction within 48 hours from the service of the notice.

(b) If a notice under paragraph (a) above is not complied with, the district council may themselves carry out the work necessary to remove the obstruction and may, subject to paragraph (c) below, recover the expenses reasonably incurred in so doing from the person on whom the notice was served.

(c) In proceedings to recover expenses under this subsection the court may inquire—

- (i) whether any requirement contained in a notice served under paragraph (a) above was reasonable; and
- (ii) whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings;

PART VI
—cont.

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

(5) Any person who without reasonable excuse obstructs or renders less commodious any means of escape in case of fire provided in or in connection with a building to which this section applies or permits such a means of escape to be obstructed or rendered less commodious shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

1961 c. 65.

(6) Without prejudice to section 14 of the Housing Act 1961, the provisions of subsections (4) and (5) above shall apply to a house occupied by persons who do not form a single household as if it were a building to which section 54 (Means of escape from fire in certain buildings) of this Act applies:

Provided that any notice under subsection (4) (a) above in respect of any such house shall be served on the persons on whom notices under the said section 14 are required to be served.

Dangerous
heaps.

56.—(1) Where rubbish or other material is heaped upon land in a district and the district council are satisfied that, by reason of the amount of rubbish or other material upon the land or its flammability, there is an urgent need to remove or disperse the rubbish or other material or otherwise to render it safe so as to reduce danger to life and property in the event of an outbreak of fire, the district council may, without prejudice to any other action which they may be authorised to take under any other enactment, do such things as they may consider necessary to secure that the rubbish or other material is removed or dispersed or otherwise rendered safe and, if the owner of the land has caused or permitted the rubbish or other material to be heaped thereon, recover from him the expenses reasonably incurred by them in so doing.

(2) (a) Before or, in case of emergency, as soon as possible after exercising the powers of subsection (1) above in relation to any land, the district council shall (unless his name and address is not ascertainable by reasonable inquiry) give notice to the owner of the intended exercise of those powers or, as the case may be, of their having been exercised.

(b) Except in cases of emergency, admission to any land shall not be demanded as of right for the purpose of taking any action

under subsection (1) above unless not less than 24 hours' notice of intended entry has been given to the occupier.

PART VI
—cont.

(3) Notwithstanding anything in subsection (3) of section 276 of the Act of 1936 as applied by this Act, that section shall apply to any rubbish or material removed by the district council under this section.

(4) (a) In proceedings to recover expenses under subsection (1) above the court may inquire whether those expenses ought to be borne wholly or in part by the occupier of the land in respect of which they were incurred, and, subject as provided in paragraph (b) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.

(b) The court shall not order the expenses or any part of them to be borne by the occupier of the land unless the court is satisfied that he has had due notice of the proceedings and an opportunity of being heard.

(5) The district council may, if they think fit, themselves bear the whole or any part of the expenses recoverable under this section.

(6) Nothing in this section shall apply to—

(a) a tip as defined in section 2 (1) of the Mines and Quarries (Tips) Act 1969; or

1969 c. 10.

(b) rubbish or other material stored in the course of business.

PART VII

RECREATIONAL FACILITIES

57.—(1) In its application to any park or pleasure ground provided by a district council, section 44 (1) of the Public Health Acts Amendment Act 1890 (parks and pleasure grounds) shall have effect as if—

Closure of
parks.

1890 c. 59.

(a) for so much of the said subsection as restricts the power of closing a park or pleasure ground on any one occasion to six consecutive days (excluding Sundays), and provides for the computation of any such period of six consecutive days, there were substituted a provision restricting the closing on any one occasion to six consecutive days, including Sundays; and

(b) for so much of the proviso to the said section 44 (1) as prohibits the closing of a park or pleasure ground on a Sunday there were substituted a provision restricting the closing of such park or pleasure ground to no more than two Sundays in any one calendar year.

PART VII
—*cont.*

(2) Where a district council propose to exercise the powers of the said section 44 (1) to close to the public a park or pleasure ground or any part thereof on a Sunday, the district council shall give reasonable notice thereof by publishing a notice in a newspaper circulating in the district and shall affix a copy or copies of the notice to some conspicuous object or objects in the park or pleasure ground.

Byelaws as
to leisure
centres.

58.—(1) A local authority may make byelaws for all or any of the following purposes:—

- (a) the good and orderly conduct of persons resorting to any leisure centre;
- (b) regulating the movement and parking of vehicles at any leisure centre;
- (c) prohibiting or regulating the use of vehicles by the public at any leisure centre otherwise than on a highway or any other road to which the public has access, including any bridge over which a road passes.

(2) Byelaws made under paragraph (a) of subsection (1) above may provide for the removal from the leisure centre of any person infringing any such byelaw by any proper officer of the local authority.

(3) In this section “leisure centre” means any place owned or managed by a local authority (whether alone or in conjunction with any other local authority or body) at which recreational facilities of any of the descriptions mentioned in subsection (1) of section 19 (recreational facilities) of the Act of 1976 are provided.

(4) In this section “local authority” includes a parish council.

Provision of
parking
places in
parks, etc.

59.—(1) In the interests of persons resorting to any park, pleasure ground or open space under their management and control a local authority may set apart an area (not exceeding the prescribed area) of the park, pleasure ground or open space for use for the parking of vehicles and provide parking places and facilities in connection therewith.

(2) Subsection (1) above shall not affect any trust, covenant or other restriction to which the park, pleasure ground or open space is subject.

(3) A local authority shall have power to make reasonable charges for the use of any facilities provided by them under this section, and may make arrangements for any such facilities to be provided by some other person, including arrangements authorising that person to make reasonable charges.

(4) In this section “the prescribed area” means—

PART VII
—cont.

- (a) in the case of a park, pleasure ground or open space of 4 hectares or less, one-eighth of the area of the park, pleasure ground or open space;
- (b) in the case of a park, pleasure ground or open space exceeding 4 hectares but not exceeding 6 hectares, one-half hectare;
- (c) in any other case, one-twelfth of the area of the park, pleasure ground or open space.

(5) A local authority shall consult the British Railways Board before exercising the powers of subsection (1) above in relation to an area of any park, pleasure ground or open space which is situated over or within 15 metres (measured in any direction) from any railway of that board.

60. A local authority or a parish council may contribute by way of grant or loan towards the expenses incurred or to be incurred by any person in providing any recreational facilities which the authority or council have power to provide by virtue of section 19 (1) of the Act of 1976 (recreational facilities).

Contribution towards provision of recreational facilities.

61.—(1) The power of a district council under sections 221 and 222 of the Act of 1936 (power to provide and charge for use of baths, etc.) to provide, and charge for the use of, public baths extends to medicated, sauna and other baths including baths the efficient properties of which are due to agencies other than water.

Medicated, sauna and other baths.

(2) A district council may make byelaws for the purpose of securing—

- (a) the cleanliness of premises at which medicated, sauna and other baths are provided by any person other than a district council for use by members of the public or of any club, organisation or body and of the towels, materials and equipment used therein; and
- (b) the cleanliness of persons employed in such premises in regard to both themselves and their clothing.

62. In its application to a district, section 21 (1) of the Land Settlement (Facilities) Act 1919 (provisions as to allotments) shall extend so as to enable the district council to purchase huts or other similar structures required for the purposes of allotments cultivated as gardens and to sell any such hut or structure to the cultivators or to allow its use at a price or charge sufficient to cover the cost of purchase.

Allotment huts.
1919 c. 59.

PART VIII

LEICESTER PROVISIONS

A. Registration of hostels

Meaning of
"hostel".

63. In this Head of this Part "hostel" means any premises in which there is provided, for persons generally or for a class or classes of persons, residential accommodation and either board or facilities for the preparation of food adequate to the needs of those persons, or both, not being—

- (a) premises used in the course of carrying on the business of a hotel or boarding house keeper providing sleeping accommodation wholly or mainly for persons who are ordinarily resident elsewhere; or
- (b) premises divided into parts let on tenancies which are protected or statutory tenancies for the purposes of the Rent Act 1977.

1977 c. 42.

Prohibition of
unregistered
hostels.

64. As from the appointed day, any person being the owner or occupier, or a person concerned in the conduct or management, of premises in the city, who—

- (a) knowingly uses those premises as a hostel when they are not registered under this Head of this Part; or
- (b) without reasonable excuse contravenes a condition imposed on registration of the premises under this Head of this Part;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Application
for
registration.

65.—(1) Application for registration or the renewal of registration of premises under this Head of this Part shall be made to the Leicester council by the owner or occupier of the premises, stating—

- (a) the name and address of the applicant and his trade or calling during the six months preceding the application;
- (b) the address or situation of the premises to which the application relates; and
- (c) such other information regarding the premises, the persons concerned or intended to be concerned in the conduct or management thereof, and the manner in which the premises are to be used, as the Leicester council may reasonably require;

and the applicant shall supply such plans of the premises as the Leicester council may reasonably require.

(2) (a) With his application for registration, or for the renewal of registration of premises under this Head of this Part, the applicant shall pay such reasonable fee to cover the expense of the Leicester council in dealing with such applications as the Leicester council may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

PART VIII
—cont.

(b) The Leicester council may dispense with, or reduce, a fee chargeable under this subsection.

66.—(1) The Leicester council shall, on considering an application for the registration of premises under this Head of this Part, take into account the suitability of the premises for use as a hostel having regard to the matters referred to in subsection (2) below and shall, on considering an application for the renewal of registration, take those matters into account if in their opinion there has, since the last registration or renewal, been a material change of circumstances affecting any of those matters. Registration of hostels.

(2) The Leicester council may refuse to register or renew the registration of premises under this Head of this Part if they are satisfied that it is reasonable to do so, having regard to all the circumstances, on the grounds that—

- (a) the applicant or any person employed or proposed to be employed by him in the conduct or management of the premises is not a fit person, whether by reason of age or otherwise, to carry on or to be so employed at a hostel of a kind named in the application;
- (b) for reasons connected with the situation, construction, state of repair, accommodation, staffing or equipment, the premises or any other premises used in connection therewith are not fit to be used for a hostel of a kind named in the application; or
- (c) the way in which it is proposed to conduct the premises is such as not to provide services or facilities reasonably required by persons resorting to such a hostel.

(3) The Leicester council may, on registering or renewing the registration of premises under this Head of this Part, impose such conditions as may be reasonable, having regard to all the circumstances, as to the conduct of the premises as a hostel, and in particular—

- (a) as to the furnishings, facilities and services to be provided in the premises; and
- (b) for limiting the number of persons or persons of any description who may be received in the premises.

PART VIII
—cont.

(4) The Leicester council may at any time revoke a registration under this Head of this Part on any ground upon which, by subsection (2) above, they are authorised to refuse to register or renew the registration of the premises, or if they are satisfied that a condition imposed under subsection (3) above has not been complied with.

(5) Before refusing to register or renew the registration of premises under this Head of this Part, revoking a registration or imposing any condition on a registration or renewal of a registration, the Leicester council shall give to the person applying for registration or renewal of registration, or, in the case of a revocation, the person in whose name the premises are registered, an opportunity of appearing before and of being heard by a committee or sub-committee of the Leicester council and, if so required by him, the Leicester council shall within 7 days after their decision give him notice thereof containing a statement of the grounds upon which it was based.

(6) Registration under this section shall, unless revoked remain in force for such period, not exceeding 13 months, as may be fixed by the Leicester council on the grant of the registration or renewal thereof.

(7) The certificate of registration of premises under this Head of this Part shall be kept affixed in a conspicuous place in the premises and any person who, without reasonable excuse, contravenes the provisions of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a daily fine not exceeding £5.

(8) Any register kept by the Leicester council for the purposes of this Head of this Part shall be available for inspection at all reasonable times and any person inspecting any such register shall be entitled to make copies of entries in the register on payment of such reasonable fee as the Leicester council may determine.

Head A of
Part VIII
appeals.

67.—(1) A person aggrieved by a refusal to register or to renew a registration of premises under this Head of this Part, or by the revocation thereof, or any condition imposed thereon, may, not later than 21 days after the day on which notice is given to him under subsection (5) of section 66 (Registration of hostels) of this Act, appeal to a magistrates' court.

(2) On any such appeal the court may, by order—

(a) confirm or set aside such refusal or revocation and, on setting aside a refusal or revocation, impose any condition which the Leicester council would have been entitled to impose; or

(b) confirm, vary or set aside any condition imposed on the registration;

PART VIII
—cont.

and make directions for giving effect to its decision:

Provided that, where conditions have been imposed on a registration or the renewal of a registration by the Leicester council, the court shall not vary any such condition so as to make the conditions more onerous than those imposed by the Leicester council.

68.—(1) An authorised officer of the Leicester council or any officer of the fire authority, in either case on producing, if so required, a duly authenticated document showing his authority, may enter upon, inspect and examine—

Head A of
Part VIII
powers
of entry,
inspection and
examination.

(a) any premises registered under this Head of this Part; or

(b) any other premises which he has reasonable cause to believe are used, or intended to be used, as a hostel for the purpose of ascertaining—

(i) whether there is, or has been, in or in connection with the premises, a contravention of the provisions of this Head of this Part or of any condition imposed on registration under this Head of this Part; or

(ii) whether or not circumstances exist which would authorise the Leicester council to take action under this Head of this Part.

(2) An authorised officer of the Leicester council or an officer of the fire authority may exercise powers under subsection (1) (b) above only if he has been granted a warrant by a justice of the peace.

(3) (a) A justice may grant a warrant under this section only if he is satisfied either—

(i) that notice of intention to apply for a warrant has been given to the occupier of the premises; or

(ii) that the case is one of urgency or that the premises are unoccupied or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of the entry.

(b) A warrant under this section shall authorise entry, if need be, by force, but shall cease to have effect at the expiration of a period of 7 days beginning with the day on which it is granted.

(4) Every person taking part in the conduct or management of any premises registered under this Head of this Part shall at all times, if so required by an authorised officer of the Leicester council or an officer of the fire authority acting in the exercise of powers under subsection (1) above, allow him to have free access to all parts of the premises.

PART VIII

—cont.

As to Housing
Act 1961.
1961 c. 65.

69. Where premises are registered under this Head of this Part, it shall not be necessary to register them under any scheme in force in the city which has been made under section 22 of the Housing Act 1961.

Exemption for
certain
premises.

70.—(1) Nothing in this Head of this Part shall apply to any premises used as a hostel being—

1977 c. 49.
1983 c. 20.

(a) premises occupied, used or managed by the Crown, the county council, the University of Leicester or the Leicester Polytechnic;

1984 c. 23.

(b) a hospital as defined in section 128 of the National Health Service Act 1977 or section 145 (1) of the Mental Health Act 1983;

1983 c. 41.

(c) a nursing home or mental nursing home as defined in the Registered Homes Act 1984;

1944 c. 31.

(d) a residential care home as defined in paragraph 1 (2) of Schedule 4 to the Health and Social Services and Social Security Adjudications Act 1983;

1980 c. 5.

(e) a school as defined in section 114 of the Education Act 1944;

1982 c. 20.

(f) a community home or voluntary home as defined in section 31 or section 56 of the Child Care Act 1980;

1973 c. 62.

(g) a children's home as defined in section 1 of the Children's Homes Act 1982;

1974 c. 44.

(h) an approved probation hostel as defined in section 49 of the Powers of Criminal Courts Act 1973;

(i) premises occupied by, or managed on behalf of, a housing association which is for the time being registered in the register of housing associations established under section 13 of the Housing Act 1974;

(j) premises in respect of which a person is registered as the keeper of a common lodging house in accordance with section 238 of the Act of 1936 for so long as the registration in respect of those premises continues.

(2) (a) The Leicester council may by resolution—

(i) exempt from this Head of this Part premises of a class or description specified in the resolution, from a date so specified; and

(ii) remove that exemption in whole or as respects premises of a particular class or description so specified, from a date so specified.

(b) Subsections (2) and (3) of section 3 (Appointed day) of this Act shall, with any necessary modifications, apply in respect of a resolution made under this subsection and of any date specified by the resolution.

(3) Notwithstanding the provisions of this Head of this Part, it shall be lawful for any person who was using any premises as a hostel immediately before the date specified in a resolution under subsection (2) (a) (ii) above for the removal of an exemption affecting those premises and had before that date duly applied for registration of those premises for that purpose to continue that use of the premises until he is informed of the decision with regard to his application.

PART VIII
—cont.

B. Miscellaneous

71.—(1) The Leicester council shall at each annual meeting appoint from among the members of the council a fit person to execute the office of high bailiff of the city and such appointment shall be made immediately after the election of the lord mayor. High bailiff.

(2) The high bailiff of the city shall, unless he resigns or ceases to be qualified or becomes disqualified for being a member of the Leicester council, hold office until the appointment of his successor.

(3) The Leicester council may pay to the high bailiff of the city such remuneration as they think reasonable.

(4) In their application to the city the provisions of paragraph (a) of section 80 (1) of the Act of 1972 (disqualifications for election and holding office) shall have effect as if after the words “deputy chairman” there were inserted the words “or high bailiff”.

72. The walk in the city known partly as the New Walk and partly as the Upper New Walk shall be kept open as a public walk for the use and accommodation of the inhabitants of the city and of all other persons who may think proper to resort thereto. New Walk.

73.—(1) In this section—

“dustbin” means a dustbin provided by the Leicester council or by the council of the former city and county borough of Leicester in exercise of their powers under section 75 (3) of the Act of 1936 or under section 58 (Provision of dustbins by Corporation) of the Act of 1956; and

Care of
dustbins in
Leicester.

“premises served” in relation to a dustbin means the premises at which such dustbin is placed by the Leicester council for the reception of house refuse.

(2) All dustbins shall remain the property of the Leicester council.

PART VIII
—cont.

(3) The Leicester council may recover from any person who, without their consent, removes a dustbin from the premises served the expenses incurred by them in replacing it.

Clearance in
housing action
areas.
1974 c. 44.

74. In their application to the city, the provisions of section 43 of the Housing Act 1974 which enable the Secretary of State to authorise the Leicester council to acquire land in a housing action area on which are situated premises which consist of or include housing accommodation shall, when the purpose of acquisition is to secure the demolition of the buildings on the land, extend to enable the Secretary of State to authorise the Leicester council to acquire other land in the housing action area the acquisition of, and demolition of buildings on, which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions.

Consumer
advice centre.

75. The Leicester council may make, or assist in the making of, arrangements to provide advice to or for the benefit of consumers of goods and services within the city.

Honorary
freemen.

76.—(1) The Leicester council may make reasonable payments for or in connection with the presentation of the freedom of the city to persons whom the council may resolve to admit as honorary freemen.

(2) The powers of the Leicester council under subsection (1) above shall be in substitution for the powers conferred on the council by section 249 (6) of the Act of 1972.

Saint
Margaret's
Select Vestry.

77.—(1) The following enactments shall continue to have effect and section 262 (9) of the Act of 1972 shall not apply to them:—

1851 c. ii.

The Leicester Sewerage Act 1851;

1878 c. cxxxii.

Section 25 (As to the purchase money for Saint Margaret's Pasture and compensation for commonable rights in same and Abbey Meadow) of the Leicester Corporation Gas and Water Transfer Act 1878 and Schedule 4 to that Act;

Articles 20 and 21 of the Order confirmed by the County Borough of Leicester Confirmation Order 1895.

1832 c. x.

(2) The provisions of the Act 2 & 3 Will.4 chapter x relating to Saint Margaret's Select Vestry and the enactments relating to the Select Vestry referred to in subsection (1) above may be amended or repealed by a scheme made by the Charity Commissioners under section 18 of the Charities Act 1960.

1960 c. 58.

(3) (a) In this subsection "the conveyances" means the conveyance relating to Saint Margaret's Pasture dated 29th September 1878 and made between the Select Vestry of the

parish of Saint Margaret in the borough and county of Leicester of the one part and the mayor, aldermen and burgesses of the borough of Leicester of the other part and the conveyance relating to the Cossington Street Recreation Ground and adjacent premises dated 20th June 1893 and made between the same parties.

PART VIII
—cont.

(b) Nothing in section 25 (As to the purchase money for Saint Margaret's Pasture and compensation for commonable rights in same and Abbey Meadow) of the Leicester Corporation Gas and Water Transfer Act 1878 or in section 4 (The Vestry to sell to Corporation twelve acres of the Parish Piece) of the Saint Margaret's Leicester Select Vestry (Parish Piece) Act 1892 shall prevent the discharge or modification of the covenants contained in the conveyances. 1878 c. cxxxii. 1892 c. xciii.

78.—(1) In this section “the canal” means so much of the Canal forming part of the undertaking of the British Waterways Board as is within the city towpath.

(2) The expression “open space” in section 20 of the Open Spaces Act 1906 shall be deemed to include any towpath or portion of towpath of the canal which the Leicester council have power to maintain and make suitable for continued public use by virtue of an agreement with the British Waterways Board and section 15 of the said Act of 1906 shall have effect as if the Leicester council had acquired control of such towpath or portion of towpath under that Act: 1906 c. 25.

Provided that any byelaws made by the Leicester council under the said section 15 shall be of no effect if and in so far as they are inconsistent with any byelaws made by the board and for the time being in force.

(3) The Leicester council shall not make byelaws in relation to any towpath or portion of towpath of the canal under section 15 of the Open Spaces Act 1906 and this section without the written consent of the British Waterways Board, which shall not be unreasonably withheld.

(4) Nothing in the Open Spaces Act 1906 as it has effect in accordance with this section or in any byelaw made under section 15 of that Act shall interfere with the use or operation of the canal or with the powers and duties of the British Waterways Board under any enactment.

79.—(1) Subsection (2) of section 143 (Offences in respect of public service vehicles) of the Act of 1956 (which makes it an offence for any person to bring into or on any public service vehicle of the Leicester council any liquid except in a container Amendment of Acts of 1956 and 1968.

PART VIII
—cont.

properly sealed or stopped so as to prevent the liquid from spilling) shall have effect as if for the words “five pounds” there were substituted the words “level 1 on the standard scale”.

(2) Subsection (4) of section 166 (Cattle Market) of the Act of 1956 (which makes it an offence for any person to sell or offer or expose for sale any cattle or horse in any market, street, highway or public place in the city other than the Cattle Market) shall have effect as if for the words “five pounds” there were substituted the words “level 1 on the standard scale”.

(3) In paragraph (d) of section 209 (Application of revenue of undertakings) to the Act of 1956, for the reference to section 210 of that Act there shall be substituted a reference to paragraph 16 of Schedule 13 to the Act of 1972.

(4) Subsection (1) of section 30 (Stopping places for public service vehicles) of the Act of 1968 shall have effect as if the words “within the city and” and “outside the city” were omitted.

Power to
conduct
research.

80. Section 141 (1) of the Act of 1972 shall apply to the Leicester council as it applies to the council of a county and as if the first two references to the county were references to the city and the third reference to the county were a reference to the county of Leicestershire.

Overnight
parking of
heavy
vehicles.

81.—(1) The provisions of subsections (2) and (3) of section 126 (Overnight parking of heavy vehicles) of the Act of 1968 shall continue to have effect in the city, notwithstanding section 262 (9) of the Act of 1972, as if they were contained in an order of the county council made under section 1 of the Act of 1984 and such provisions may be varied or revoked accordingly by an order made under that Act.

(2) In subsections (2) and (3) of the said section 126, as continued by this section—

“front” has the same meaning as in section 203 of the Act of 1980;

“heavy vehicle” means a mechanically propelled vehicle having a maximum gross weight exceeding 7.5 tonnes;

“night” means the interval between nine o'clock in the evening and seven o'clock in the morning of the next succeeding day;

“residential street” means a street predominantly fronted either by residential or mainly residential buildings or by such buildings and schools or public open spaces.

PART IX

MISCELLANEOUS

82.—(1) In their application to the county section 140A of the Act of 1972 (insurance of voluntary assistants) and section 140C of that Act (supplementary provisions) shall have effect as if the references to a voluntary assistant included references to a visiting pupil. Insurance of visiting pupils.

(2) In this section “visiting pupil” means a pupil who attends a school maintained by the county council or an institution as described in section 1 of the Education (No. 2) Act 1968 and who for the time being is, under arrangements made by the county council for the purpose of his education, engaged on visiting or working at any place of work. 1968 c. 37.

83.—(1) The information which may be made available pursuant to arrangements which a local authority make, or assist in making, under section 142 (1) of the Act of 1972 shall include any information with regard to matters of recreational, cultural or scientific interest in their area and its neighbourhood, and information for tourists and the travelling public. Power to provide information.

(2) A local authority may incur expenditure in advertising and making known the advantages, facilities and amenities afforded or to be afforded by their area for commerce and industry in any manner which the local authority may think fit, and without prejudice to the generality of the foregoing provisions of this subsection they may for that purpose—

- (a) combine with any other organisation, company or person; and
- (b) employ such persons, firms or companies as they think fit.

(3) The expenditure of a local authority under subsection (2) above shall not in any financial year exceed the product of a rate of 1p in the pound for their area for that year which shall be computed in the manner prescribed by subsection (8) of section 137 of the Act of 1972.

(4) In this section “local authority” includes a parish council.

84. The powers of a local authority under section 142 (2) of the Act of 1972 to arrange for the publication within their area of information relating to local government extend to their area and its neighbourhood and to the publication within and outside their area of works of scholarship with a local connection. Publication of bulletins, etc.

PART IX

—*cont.*

Certain
particulars to
be furnished in
writing.

Evidence of
confirmation
of committee
decisions, etc.

85. In its application to the county section 16 (1) of the Act of 1976 shall have effect as if after the word “furnish” there were inserted the words “in writing”.

86.—(1) In proceedings under any enactment, where any document purporting to be certified by the proper officer of a local authority relates to a decision of a committee of the local authority any statement contained in that document that such decision was confirmed by the authority on a specified date or that such decision was made in exercise of functions delegated by the authority to the committee shall be evidence of the fact so stated.

(2) In this section “committee” includes a sub-committee of a committee.

Training
arrangements.

87. A local authority may make or join in making, arrangements with any employer or association of employers in the county whereby the employer or association of employers will employ and train, or provide facilities for the training of, persons to undertake skilled employment on such terms and conditions as may be agreed between the local authority and the employer or association of employers.

Recording of
documents.

88. Section 229 of the Act of 1972 (photographic copies of documents) in its application to any local authority or parish council shall have effect as if, at the end of subsection (1), there were inserted the words “or a recording in non-legible form from which a facsimile of the document may be reproduced”, as if, in subsections (2) and (4) to (7), there were inserted after the words “photographic copy” the words “or a facsimile produced from a recording” and as if at the end of subsection (6) there were inserted the words “or facsimile”.

Microfilming
of documents.

89.—(1) Notwithstanding anything contained in any enactment a local authority may destroy any documents of, or deposited with, the local authority other than minute books, of which they have made and retained microfilm recordings:

Provided that a local authority shall not under this section destroy records deposited with them under the Public Records Act 1958, or acquired or accepted by them under section 2 of the Local Government (Records) Act 1962.

1958 c. 51.
1962 c. 56.

(2) In this section “microfilm recording” means a reproduction of a document by any process which reproduction is in general beyond legibility with the naked eye.

90.—(1) If any person uses in connection with any trade, business, calling or profession the armorial bearings of a local authority or a parish council, or an emblem or device closely resembling those armorial bearings, in such a manner as to be calculated to lead to the belief that he is entitled to use those bearings as his own, he may at the suit of the local authority or parish council (as the case may be) be restrained by injunction from continuing to use them.

PART IX
—*cont.*
Restriction on
use of
armorial
bearings.

(2) If any person without the consent of a local authority or a parish council uses in connection with any trade, business, calling or profession any part of the armorial bearings of that authority or council, or any emblem or device closely resembling any such part, in a manner calculated to lead to the belief that he displays the part, emblem or device with the approval of that local authority or council, he may at the suit of the local authority or parish council (as the case may be) be restrained by injunction from continuing to use that part, emblem or device.

(3) Nothing in this section shall affect any right of the proprietor to the continued use of any trade mark in existence at the commencement of this Act.

91. For the purposes of section 61 of the General Rate Act 1967 (recovery of rates from tenants and lodgers) the rates due from the person rated for any hereditament within a district shall be deemed to be in arrear if such rates are not paid within one month after lawful demand in writing has been made for the same.

Recovery of
rates from
tenants and
lodgers.
1967 c. 9.

92.—(1) This section applies to installations comprising works and apparatus used for the purpose of supplying heat by means of hot air, hot water or steam which are held by a district council in connection with the provision of housing accommodation under Part V of the Housing Act 1957.

District
heating.

1957 c. 56.

(2) Where land held under the said Part V and used for the purposes of an installation to which this section applies has been appropriated by the district council for the purposes of section 11 of the Act of 1976, so much of the installation as is on the land and, in the case of an interest in land relating to the maintenance of pipes and associated works, those pipes and associated works shall be deemed to have been provided under the said section 11.

93.—(1) In this section “the reservoir” means the service reservoir of the Severn-Trent Water Authority situated in Bradgate Park in the borough of Charnwood.

Bradgate Park
byelaws.

PART IX
—*cont.*
1863 c. 13.

(2) Byelaws made by the committee of management of Bradgate Park under the Town Gardens Protection Act 1863 with respect to the park shall if the committee so resolve apply to the area of the reservoir to which the public have access subject to the prior consent of the Severn-Trent Water Authority.

Power to
charge for
admission to
certain Shows
on Sundays.
1780 c. 49
(21 Geo. 3).

94.—(1) No person shall be guilty of an offence or subject to any penalty under the Sunday Observance Act 1780 by reason of his having managed, conducted, assisted at, or otherwise taken part in, or attended or advertised a Show to which this section applies or by reason of his being the keeper of any place opened and used on Sundays for the purpose of such a Show.

(2) This section applies to the City of Leicester Show and the Leicestershire County Agricultural Show.

PART X

GENERAL

Local
inquiries.

95. A Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act and section 250 (2) to (5) of the Act of 1972 shall apply to any such inquiry.

Saving for
conduct of
business or
use of
premises.

96.—(1) Where under any provision of this Act the carrying on of a specified business or the use of premises for a specified purpose is subject to a requirement for registration with, or for the issue of a licence by, a local authority, it shall be lawful for any person who—

(a) immediately before the day on which the requirement comes into operation is carrying on any such business or using premises for any such purpose; and

(b) has before that day duly applied for the registration or licence required by that provision;

to carry on that business, or, as the case may be, to use those premises for that purpose pending the issue of a certificate of registration or until he is notified of the decision with regard to his application and, if the decision is adverse, during such further time as is provided under section 99 (Suspension of proceedings pending appeal) of this Act.

(2) Where any such registration or licence is required by this Act to be renewed from time to time, it shall be lawful for a person who carries on a business or uses premises for any purpose, having obtained (or renewed) the necessary registration or licence and having during the currency thereof duly applied for the renewal thereof to continue to carry on that

business or, as the case may be, use those premises for that purpose until he is notified of the decision with regard to his application and, if the decision is adverse, during such further time as is provided under the said section 99.

PART X
—*cont.*

97. Sections 300 to 302 of the Act of 1936 shall apply in respect of appeals to a magistrates' court under this Act.

Appeals to
magistrates'
court.

98.—(1) On an appeal to the Secretary of State under any provision of this Act mentioned in subsection (2) below, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

Appeals to
Secretary of
State.

(2) The provisions referred to in subsection (1) above are the following:—

In section 48 (Buildings used for storage of flammable substances), subsection (5);

In section 49 (Parking places: safety requirements), subsection (6);

In section 52 (Fire precautions in high buildings), subsection (5);

In section 53 (Fire precautions in large storage buildings), subsection (6).

(3) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination.

(4) Where the Secretary of State gives a decision in proceedings on any such appeal, the appellant or the local authority may appeal to the High Court against the decision on a point of law.

(5) At any stage of the proceedings on any such appeal the Secretary of State may state any question of law arising in the course of proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment or order of the High Court).

1981 c. 54.

99. Where a requirement, refusal or other decision of a local authority against which a right of appeal is conferred by this Act—

Suspension of
proceedings
pending
appeal.

(a) involves the execution of any work or the taking of any action; or

PART X
—cont.

- (b) makes it unlawful for a person to carry on any undertaking, trade or business which he was lawfully carrying on immediately before the requirement, refusal or decision was made or, but for this section, came into effect, or to use premises for any purpose for which they were lawfully then used;

then until the time for appealing has expired or, if an appeal is lodged, until it is disposed of or withdrawn or fails for want of prosecution—

- (i) no proceedings shall be taken in respect of any failure to execute the work or to take the action, nor shall the local authority themselves execute the work or take the action; and
- (ii) the person may continue to carry on the undertaking, trade or business, or to use the premises for that purpose.

Arbitration.

100. Where under this Act any question is to be determined by arbitration, then, unless otherwise provided, the question shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Restriction on
right to
prosecute.

101. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, a local authority, a parish council or a constable.

Crown
rights.

102.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises a local authority to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners, without the consent in writing of those commissioners; or
- (b) belonging to a government department, or held in trust for Her Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

PART X
—cont.

(3) Nothing in this section shall prejudice or affect any statutory powers of a local authority to carry out code-regulated works within the meaning of the Act of 1950 in any highway vested in, or maintained by, the Secretary of State.

103.—(1) Where an offence under this Act or against any byelaw made under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence. Liability of directors, etc.

(2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

104. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act, or of any byelaws made thereunder, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. Penalty for obstruction.

105.—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence. Defence of due diligence.

(2) The provisions referred to in subsection (1) above are the following:—

- Section 13 (Plans, etc., of new streets);
- Section 21 (Safety of stands);
- Subsection (6) of section 23 (Hairdressers and barbers);
- Section 27 (Dust, etc., from building operations);
- Section 39 (Restriction on use of dustbins);
- Part VI (Fire precautions), except section 51 (Byelaws with regard to certain temporary structures) and section 55 (Maintenance of means of escape from fire).

(3) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence

PART X
—*cont.*

was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying, or assisting in the identification of, that other person.

Application
of general
provisions of
Act of 1936.

106.—(1) The sections of the Act of 1936 mentioned in Schedule 3 to this Act, shall have effect as if references therein to that Act included references to this Act.

(2) Section 287 of the Act of 1936 (powers of entry) shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

- Section 10 (Control of floodlighting);
- Section 13 (Plans, etc., of new streets);
- Section 21 (Safety of stands);
- Section 22 (Closure of insanitary food premises and stalls);
- Section 26 (Control of brown tail moth);
- Section 27 (Dust, etc., from building operations);
- Section 29 (Trees impeding natural light to houses, shops and offices);
- Section 31 (Summary power to remedy broken water closets);
- Section 32 (Grease traps);
- Section 34 (Power to examine and test flues believed to be defective);
- Section 35 (Urgent repairs to water, gas and electricity apparatus);
- Section 36 (Repair of walls, etc., of passages and gardens);
- Part VI (Fire precautions), except section 51 (Byelaws with regard to certain temporary structures);
- Subsection (2) of section 61 (Medicated, sauna and other baths);

Provided that, before entry on any operational railway line of the British Railways Board in pursuance of any of those provisions of this Act and of the said section 287 as it has effect by virtue of this section, not less than 24 hours' notice of intended entry shall, except in case of emergency, be given to that board and that any person entering on any such railway line in pursuance of that notice or in any such emergency shall comply with the reasonable requirements of the British Railways Board for the protection of their undertaking.

107. Section 17 of the Act of 1982 (powers of entry) shall have effect with respect to the following provisions of this Act as that section has effect with respect to section 16 of the Act of 1982:—

- Section 23 (Hairdressers and barbers);
- Section 43 (Occasional sales).

PART X
—cont.
Application
of section 17
of Act of
1982.

108.—(1) Section 108 (3) of the Control of Pollution Act 1974 (which authorises the Secretary of State to repeal or amend local Acts) shall apply to the provisions of this Act mentioned in subsection (2) below as if this Act had been passed before the Control of Pollution Act 1974.

Saving for
Control of
Pollution
Act 1974.
1974 c. 40.

(2) The provisions referred to in subsection (1) above are the following:—

- Section 37 (Maintenance of and access to bulk refuse containers);
- Section 38 (Provision of bulk refuse containers);
- Section 39 (Restriction on use of dustbins).

109.—(1) Subsection (1) of section 80 (repeal or modification of certain provisions by regulations) of the Health and Safety at Work etc. Act 1974 shall apply to any provision of this Act and to any byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of the said section 80.

Saving for
Health and
Safety at
Work etc. Act
1974 and
Building Act
1984.
1974 c. 37.

(2) Sub-paragraph (1) of paragraph 11 of Schedule 1 to the Building Act 1984 (repeal or modification of certain enactments by building regulations) shall apply to any enactment in this Act and to any provision of a byelaw made under it as that sub-paragraph applies to any enactment mentioned therein.

1984 c. 55.

(3) Nothing in the following provisions of this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974:—

- Section 27 (Dust, etc., from building operations);
- Section 39 (Restriction on use of dustbins);
- Section 44 (Policing and control of pedestrian ways);
- Section 48 (Buildings used for storage of flammable substances);
- Section 52 (Fire precautions in high buildings);
- Section 53 (Fire precautions in large storage buildings).

PART X

—*cont.*

Saving for Fire
Precautions
Act 1971.
1971 c. 40.

110. Subsection (2) of section 30 of the Fire Precautions Act 1971 (avoidance of duplication by local Act provisions) shall apply to this Act as if this Act had been passed before the coming into operation of that subsection.

Repeals.

111.—(1) The Acts specified in Part I of Schedule 4 to this Act and the Orders specified in Part II of that Schedule are hereby repealed to the extent specified in that Schedule.

(2) The transitional provisions and savings contained in Schedule 5 to this Act shall have effect.

SCHEDULES

Section 5.

SCHEDULE 1

APPARATUS OF UNDERTAKERS

1. Any undertakers whose apparatus is in any regulated land shall, if reasonably requested so to do by the local authority, and may, in consequence of any works to be carried out on such land or use to which such land is to be put—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as they may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

2. Subject to the following provisions of this Schedule, the local authority shall pay to any undertakers an amount equal to the cost reasonably incurred by them in or in connection with—

- (a) the execution of works under paragraph 1 of this Schedule (including the provision of apparatus thereunder); and
- (b) the doing of any other work or thing rendered necessary by the execution of such works.

3. If in the course of the execution of undertakers' works under paragraph 1 of this Schedule—

- (a) apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was;

and the placing of apparatus of that type, dimensions or capacity or the placing of apparatus at that depth, as the case may be, is not agreed by the local authority, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the said works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the undertakers by virtue of the last foregoing paragraph shall be reduced by the amount of that excess.

4. For the purposes of the last foregoing paragraph—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

SCH. 1
—cont.

5. An amount which apart from this paragraph would be payable to undertakers in respect of works of theirs by virtue of paragraph 2 of this Schedule (and having regard, where relevant, to paragraph 3 of this Schedule) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven and a half years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

6. Any question arising under this Schedule shall, in default of agreement between the parties concerned, be determined by arbitration in accordance with the Act of 1950.

Section 44.

SCHEDULE 2
ENACTMENTS APPLIED TO PEDESTRIAN WAYS

Chapter (1)	Short title (2)	Provisions applied (3)	Modifications (4)
1980 c. 66.	Highways Act 1980.	Section 161 (Penalty for causing certain kinds of danger or annoyance). Section 178 (Restriction on placing rails, beams, etc., over highways).	In subsection (2) the words “which consists of or comprises a carriageway” shall be omitted. In subsection (1) for the words “highway authority for the highway” and for the words “highway authority” there shall be substituted the words “district council” in each case.

SCHEDULE 3

Section 106.

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
283 (1)	Notices to be in writing; forms of notice, &c.
285	Service of notices, &c.
291	Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

SCHEDULE 4

Section 111.

ENACTMENTS REPEALED

PART I

ACTS

Chapter (1)	Title or short title (2)	Extent of repeal (3)
4 Geo. 3. c. 14 (1764).	An Act for dividing and inclosing several Common and Open Fields and Meadows, in the Parish of St. Margaret, near the Borough of Leicester, in the County of Leicester.	The whole Act.
44 Geo. 3. c. 16 (1804).	An Act for inclosing lands in the Parish of Saint Mary, in or near the Borough of Leicester, in the County of Leicester.	The whole Act.

SCH. 4
—cont.

Chapter (1)	Title or short title (2)	Extent of repeal (3)
44 Geo. 3. c. xxxiv (1804).	An Act for empowering the Justices of the Peace for the County of Leicester, at their General Quarter Sessions of the Peace, to make a fair and equal County rate for the said County.	The whole Act.
51 Geo. 3. c. lxvii (1811).	An Act for vesting in the Justices of the Peace for the County of Rutland, the new Gaol and Bridewell for that County, and the ground purchases for the Scites thereof, and for confirming certain Rates and Proceedings relative thereto.	The whole Act.
58 Geo. 3. c. xx (1818).	An Act for providing a convenient House, with suitable Accommodations, for His Majesty's Judges at the Assizes for the County of Leicester; and for making therein a convenient Place for the Justices of the Peace to meet and transact any public Business of the said County; and also for the safe Custody of the Public Records of the said County.	The whole Act.
10 Geo. 4. c. xiii (1829).	An Act for better assessing and collecting the Poor and other Rates in the Parish of Hinckley in the Counties of Leicester and Warwick.	The whole Act.
7 Will. 4. c. i (1837).	An Act to enable the Corporation of Leicester to apply the Proceeds of their Real Estates in payment of Money borrowed for the Purchase and Enlargement of the Gaol and House of Correction for the Borough of Leicester.	The whole Act.
10 & 11 Vict. c. cclxxxii.	The Leicester Waterworks Act 1847.	Sections 1 and 23.
11 & 12 Vict. c. ii.	The Leicester Cemetery Act 1848.	The whole Act.
13 & 14 Vict. c. 90.	The Public Health Supplemental Act 1850 (No. 2).	Section 2 and the Order relating to Ashby de la Zouch.

SCH. 4
—*cont.*

Chapter (1)	Title or short title (2)	Extent of repeal (3)
14 & 15 Vict. c. ii.	The Leicester Sewerage Act 1851.	Sections 2 to 4, 7, 8, 12 to 19, 26, 27, 37 and 48 to 50 and the Schedule.
14 & 15 Vict. c. xxxiii.	The Leicester Waterworks Amendment Act 1851.	Sections 6, 8 and 17.
15 & 16 Vict. c. 69.	The Public Health Supplemental Act 1852 (No. 2).	The Order relating to Ashby-de-la-Zouch.
23 & 24 Vict. c. v.	Leicester Gas Act 1860.	The whole Act.
23 & 24 Vict. c. xxii.	The Leicester Cemetery Amendment Act 1860.	The whole Act.
28 & 29 Vict. c. vii.	The Leicester Lunatic Asylum and Improvement Act 1865.	The whole Act.
29 & 30 Vict. c. xxvi.	The Leicester Cattle Market, Town Hall, and Improvement Act 1866.	The whole Act.
29 & 30 Vict. c. xxvii.	The Leicester Waterworks Act 1866.	Sections 6, 7 and 14.
31 & 32 Vict. c. xvi.	The Loughborough Local Board Act 1868.	The whole Act, except sections 1, 2, 6, 8 and 22 to 29.
31 & 32 Vict. c. xxiv.	Leicester Improvement, Drainage, and Markets Act 1868.	The whole Act.
32 & 33 Vict. c. xxvii.	Melton Mowbray Cattle Market, &c. Act 1869.	Sections 7 to 10, 12, 13, 17, 22, 27 to 30, 33, 34, 40 to 42 and 44 and Schedule 2.
36 & 37 Vict. c. xi.	The Leicester Gas Act 1873.	The whole Act.
37 & 38 Vict. c. lxii.	Leicester Improvement Act 1874.	The whole Act.
39 & 40 Vict. c. xxvi.	Leicester Improvement Act 1876.	The whole Act.
40 & 41 Vict. c. cl.	The Leicester Gas Act 1877.	Sections 2 to 10, 12 to 34 and 37.
40 & 41 Vict. c. clxx.	The Leicester Tramways Act 1877.	The whole Act.

SCH. 4
—cont.

Chapter (1)	Title or short title (2)	Extent of repeal (3)
40 & 41 Vict. c. ccxlii.	Local Government Board's Provisional Orders Con- firmation (Atherton, &c.) Act 1877.	The Order relating to Belgrave.
41 & 42 Vict. c. xxxvii.	Local Government Board's Provisional Orders Con- firmation (Abingdon, &c.) Act 1878.	The Order relating to Loughborough Union.
41 & 42 Vict. c. cxxxii.	Leicester Corporation Gas and Water Transfer Act 1878.	Sections 4, 5, 10 to 12, 14 and 24 and Schedules 1 and 3.
42 & 43 Vict. c. lxxviii.	Local Government Board's Provisional Orders Con- firmation (Aysgarth Union, &c.) Act 1879.	The Order relating to Hinckley.
42 & 43 Vict. c. cc.	Leicester Corporation Act 1879.	The whole Act.
43 & 44 Vict. c. lix.	Local Government Board's Provisional Orders Con- firmation (Amersham Union, &c.) Act 1880.	The Order relating to Ashby-de-la-Zouch Union.
43 & 44 Vict. c. clvii.	Hinckley Local Board Gas Act 1880.	Sections 2 to 15, 19 to 22, 28 to 30, 32 to 37, 39 to 43, 45 and 47 to 50 and Sched- ules 3 and 4.
44 & 45 Vict. c. lxxii.	Leicester Improvement Act 1881.	Sections 2, 4 to 6, 9 to 13, 15, 17, 26 to 31, 34, 39, 42 and 44.
47 & 48 Vict. c. xxxii.	Leicester Corporation Act 1884.	The whole Act.
47 & 48 Vict. c. xlix.	Local Government Board's Provisional Orders Con- firmation (Poor Law) (No. 8) Act 1884.	The Order relating to Cole Orton and Thringston.
47 & 48 Vict. c. lxxv.	Local Government Board's Provisional Orders Con- firmation (Poor Law) (No. 10) Act 1884.	The Order relating to Charley and New- town Linford and the Order relating to Charley and Markfield.
49 & 50 Vict. c. xxxvi.	Loughborough Local Board Act 1886.	Sections 2, 3, 5, 22, 32 to 35, 40, 41, 45 and 46.

Chapter (1)	Title or short title (2)	Extent of repeal (3)
53 & 54 Vict. c. xxxvi.	Leicester Corporation Water- works Act 1890.	Sections 14 and 15.
53 & 54 Vict. c. excii.	Electric Lighting Orders Confirmation (No. 7) Act 1890.	The Leicester Electric Lighting Order 1890.
54 & 55 Vict. c. c.	Leicester Extension Act 1891.	The whole Act.
60 & 61 Vict. c. xxviii.	Loughborough Corporation Act 1897.	Sections 2, 3, 12 to 15, 18 to 22, 25, 30, 33, 36 and 38.
60 & 61 Vict. c. lxxi.	Local Government Board's Provisional Orders Con- firmation (No. 6) Act 1897.	The Ashby-de-la- Zouch Order 1897.
60 & 61 Vict. c. cxxxix.	Local Government Board's Provisional Orders Con- firmation (No. 12) Act 1897.	The Counties of Derby and Leicester (Woodville &c.) Or- der 1897 in so far as it relates to the county of Leicester.
60 & 61 Vict. c. clxxxvii.	Swadlincote District Gas Act 1897.	Sections 2 to 20, 22 to 56 and the Schedule in so far as they relate to Leicester- shire.
60 & 61 Vict. c. ccxviii.	Leicester Corporation Act 1897.	The whole Act.
61 & 62 Vict. c. lxxii.	Market Harborough Urban District Council Gas Act 1898.	Sections 2 to 15, 18 to 34, 36, 37 and 39 to 60.
61 & 62 Vict. c. lxxix.	Local Government Board's Provisional Orders Con- firmation (No. 6) Act 1898.	The Blaby Rural (En- derby) Order 1898.
62 & 63 Vict. c. cxcvii.	Loughborough Corporation Act 1899.	Sections 2 to 22, 24 to 26, 29, 35, 38 to 40, 43 to 91, 93 to 110, 114 to 128, 130 to 134, 137, 142, 145, 146, 148 to 160 and 162 to 174 and Schedules 2 to 5.
62 & 63 Vict. c. cclxix.	Derwent Valley Water Act 1899.	Sections 136 and 146 to 148.

SCH. 4
—cont.

Chapter (1)	Title or short title (2)	Extent of repeal (3)
63 & 64 Vict. c. lv.	Local Government Board's Provisional Orders Con- firmation (No. 4) Act 1900.	The Lutterworth Rural Order 1900.
63 & 64 Vict. c. clxxx.	Local Government Board's Provisional Orders Con- firmation (No. 11) Act 1900.	The Barrow-upon- Soar Rural Order 1900.
2 Edw. 7. c. clxxvii.	Leicester Corporation Act 1902.	Sections 62 to 69, 74, 103 and 111 and Schedules 1 and 4.
3 Edw. 7. c. xl.	Shepshed Urban District Council Gas Act 1903.	Sections 2 to 16 and 22 to 64.
3 Edw. 7. c. lxiii.	Local Government Board's Provisional Orders Con- firmation (No. 7) Act 1903.	The County of Leices- ter Order 1903.
4 Edw. 7. c. cxvii.	Local Government Board's Provisional Orders Con- firmation (No. 6) Act 1904.	The County of Rut- land Order 1904.
4 Edw. 7. c. cxcvi.	Derwent Valley Water Act 1904.	Sections 6, 12, 13 and 27.
5 Edw. 7. c. xxxv.	Loughborough Corporation Act 1905.	Sections 2, 3, 5, 12, 16, 21, 24 and 27 to 29.
5 Edw. 7. c. cvi.	Local Government Board's Provisional Orders Con- firmation (No. 8) Act 1905.	The Leicester Order 1905.
6 Edw. 7. c. xxv.	Electric Lighting Orders Confirmation (No. 2) Act 1906.	The Market Har- borough Electric Lighting Order 1906.
6 Edw. 7. c. ciii.	Local Government Board's Provisional Orders Con- firmation (No. 4) Act 1906.	The Blaby Rural Order 1906.
8 Edw. 7. c. lvi.	Leicester Corporation Act 1908.	The whole Act.
9 Edw. 7. c. lxiii.	Derwent Valley Water Act 1909.	Section 16.
3 & 4 Geo. 5. c. lxxxvi.	Leicester Corporation Act 1913.	Sections 24 to 29, 40, 41, 48, 50 and 51 and Schedule 1.
9 & 10 Geo. 5. c. cii.	Leicester Corporation Act 1919.	The whole Act.

Chapter (1)	Title or short title (2)	Extent of repeal (3)
11 & 12 Geo. 5. c. xviii.	Ministry of Health Provisional Orders Confirmation (No. 2) Act 1921.	The Loughborough Order 1921.
11 & 12 Geo. 5. c. cxvi.	Leicester Corporation Act 1921.	Sections 2, 5 (2), 6, 7, 35, 36, 38, 45, 49, 51, 54, 58, 61 and 62 and Schedule 1.
13 & 14 Geo. 5. c. xxxviii.	Ministry of Health Provisional Orders Confirmation (No. 5) Act 1923.	The Leicester Order 1923.
14 & 15 Geo. 5. c. lxxii.	Ministry of Health Provisional Orders Confirmation (No. 6) Act 1924.	The Loughborough Order 1924.
15 & 16 Geo. 5. c. xxxiv.	Leicester Corporation Act 1925.	The whole Act.
18 & 19 Geo. 5. c. liv.	Ministry of Health Provisional Orders Confirmation (No. 7) Act 1928.	The Loughborough Order 1928.
20 & 21 Geo. 5. c. xcvi.	Ministry of Health Provisional Orders Confirmation (Ashby - de - la - Zouch and Slough) Act 1930.	The Ashby - de - la - Zouch Order 1930.
20 & 21 Geo. 5. c. clxxxiv.	Leicester Corporation Act 1930.	In section 4 (2) paragraph (A), sections 5 (2) and 8 (1), in section 17 (1) the proviso, sections 18, 23 (2), 36, 51, 53, 54, 58, 59 and 62 to 67.
25 & 26 Geo. 5. c. iv.	Ministry of Health Provisional Order Confirmation (Leicester and Warwick) Act 1935.	The whole Act in so far as it relates to Leicestershire.
25 & 26 Geo. 5. c. cv.	Derwent Valley Water Act 1935.	Section 10.
7 & 8 Geo. 6. c. xvi.	Loughborough Corporation Act 1944.	Sections 4, 5 and 24 to 49 and the Schedule.
4 & 5 Eliz. 2. c. xlix.	Leicester Corporation Act 1956.	Sections 4 to 6, 7 (except so much as relates to water), 8 to 13, 16, 18 to 21, 23, 24, 26, 31, 34, 40 to 43, 46 to 49, 51, 54, 56 to 59, 65, 67 to

SCH. 4
—cont.

Chapter (1)	Title or short title (2)	Extent of repeal (3)
4 & 5 Eliz. 2. c. xlix.—cont.	Leicester Corporation Act 1956.—cont.	70, 72 to 74, 76, 79 to 86, 88 to 92, 94 to 98, 100 to 111, 113 to 122, 138, 145 to 147, 148 (3), 160, 162, 163, in section 165(1) the definition of “Haymarket”, 166 (2), (3) and (5), 168 (3), the proviso to section 169 (1), sections 169 (2), 170, 176 (3), the proviso to section 176 (4), sections 177, 181 to 183, 185 to 206, 210, 212 to 214, 216 to 229, 231 (except so much as relates to the trans- port undertaking), 232 to 235, 237 to 246, 248 to 253, 256 to 259, 260 (3) to (5), 261, 264 and 265, Part I of Schedule 3, Parts III, IV and V of Schedule 4 and Schedule 5.
1968 c. xl.	Leicester Corporation Act 1968.	Section 2, in section 3 (2) all definitions (except those of “the Act of 1956”, “the Act of 1960”, “the City”, “the Corpora- tion” and “public service vehicle”), sections 4 to 29, 31 to 34, 52 to 94, 96 to 116, 118 to 125, 126 (1), (4) and (5), 127 to 130, 131 (2) to (4), 132 to 136 and 138 and Schedules 1, 2 and 4 to 6, Parts II, III and IV of Schedule 7 and Schedules 8 and 9.
1970 c. xiv.	Leicestershire County Council Act 1970.	The whole Act.

PART II
ORDERS

SCH. 4
—cont.

S. R. & O. and S. I. number (1)	Short title (2)	Extent of repeal (3)
—	County Borough of Leicester Confirmation Order 1895.	The whole Order, made by the Council of the County Borough of Leicester, except articles 20 and 21.
—	Order of the Local Government Board dated 24th September 1896.	The whole Order (which relates to Leicester).
S.R. & O. 1922/608.	Hinckley Gas Order 1922.	Sections 2 (1), 3, 6 to 8, 10 to 17, 19, 20 and 22 to 38.
S.R. & O. 1922/896.	Leicester Gas (Charges) Order 1922.	The whole Order.
S.R. & O. 1923/818.	Loughborough Gas (Charges) Order 1923.	The whole Order.
—	Kettering Electricity (Extension) Special Order 1923.	The whole Order in so far as it relates to Market Harborough.
—	Leicester Electricity (Extension) Special Order 1925.	Sections 2 to 4, 6 to 8, 10 and 11 and Schedules 1 and 3.
S.R. & O. 1927/105.	Loughborough Gas (Charges) Amending Order 1927.	The whole Order.
S.R. & O. 1928/512.	Hinckley Gas Order 1928.	Sections 2 to 6, 9 to 25, 27 and 28 and Schedules 1 and 3.
—	County of Leicester Review Order 1935.	The whole Order.
—	County of Leicester Review Order 1936.	The whole Order.
S.R. & O. 1936/688.	Leicester Gas Order 1936.	Sections 2 to 8 and 10 to 14 and Schedules 1 and 2.
S.R. & O. 1937/1185.	Loughborough Gas Order 1937.	The whole Order.

SCH. 4
—cont.

S. R. & O. and S.I. number (1)	Short title (2)	Extent of repeal (3)
S.R. & O. 1941/294.	Leicester Gas Order 1941.	Sections 2 to 11, 13 to 16, 18 to 20 and 22 to 32 and Schedules 1 and 2.
S.R. & O. 1943/548.	Leicester Gas Order 1943.	Sections 2 to 10 and 12 to 18 and Schedules 1 and 2.
S.R. & O. 1947/1027.	Leicester Corporation Tramways (Increase of Charges) Order 1947.	The whole Order.
S.I. 1953/472.	Leicester (Amendment of Local Enactments) Order 1953.	The whole Order.
S.I. 1955/1293.	River Dove Water Board Order 1955.	Sections 5 to 11, 13 to 16, 26 to 33 and 35 to 42 and Schedules 1, 3 and 4.
S.I. 1958/1562.	Leicester Water (No. 2) Order 1958.	Sections 4, 5 (2) and (3), 9, 11, 13, 16, 24, 25 and 27.
S.I. 1959/411.	Leicester Water Order 1959.	Sections 4, 5 (2) and (3), 9, 11, 13, 16, 24, 25 and 27 and Schedule 2.
S.I. 1959/519.	River Dove Water Board Order 1959.	The whole Order.
S.I. 1959/785.	Leicester (Amendment of Local Enactments) Order 1959.	The whole Order.
S.I. 1959/1571.	Leicester Water (No. 2) Order 1959.	Sections 4, 5 (2) and (3), 9, 11, 13, 16, 21, 22 and 24 and Schedule 2.
S.I. 1960/245.	Leicester Water Order 1960.	Sections 4, 5 (2) and (3), 9, 11, 13, 16, 21 and 22.
S.I. 1961/1886.	Leicester Water (Croft) Order 1961.	Sections 3 (2), 4, 5, 6 (2) and 8.
S.I. 1961/1984.	Leicester (Repeal of Local Enactments) Order 1961.	The whole Order.

SCH. 4
—cont.

S. R. & O. and S.I. number (1)	Short title (2)	Extent of repeal (3)
S.I. 1962/679.	Leicester Water (Market Harborough) Order 1962.	Sections 3, 4 (2) and (3), 8, 10, 11, 15 and 16.
S.I. 1962/1724.	Leicester (Amendment of Local Enactment) Order 1962.	The whole Order.
S.I. 1962/2317.	Leicester (Modification of Local Acts) Order 1962.	The whole Order.
S.I. 1964/1712.	North West Leicestershire Water Board Order 1964.	Sections 4 to 14, 17 to 21, 22 (1) and (5), 23 to 25, 27 (2) and (3), 28 to 45 and 47 to 50, Part II of Schedule 1 and Schedules 3, 5 and 6.
S.I. 1964/1742.	Leicester Water Order 1964.	The whole Order.
S.I. 1965/1393.	River Dove Water Board Order 1965.	Section 3.
S.I. 1965/1812.	Leicester (Amendment of Local Act) Order 1965.	The whole Order.
S.I. 1965/1851.	Police (Adaptation of Enactments) Order 1965.	So much of the Order as relates to Leicester.
S.I. 1966/7.	Leicester Water Order 1966.	The whole Order.
S.I. 1966/563.	Building Regulations (Local Enactments) Order 1966.	The whole Order in so far as it relates to Leicester and Loughborough.
S.I. 1966/598.	Leicester Water (No. 2) Order 1966.	The whole Order.
S.I. 1969/1013.	River Dove Water Board Order 1969.	Sections 6, 7 and 8 (1) to (4).
S.I. 1969/1478.	Theatres (Adaptation of Enactments) Order 1969.	The whole Order in so far as it relates to Leicester.
S.I. 1971/25.	Decimal Currency (Amend- ment of Local Enactments) Order 1971.	The whole Order in so far as it relates to Leicester.

SCH. 4
—cont.

S. R. & O. and S.I. number (1)	Short title (2)	Extent of repeal (3)
S.I. 1971/539.	North West Leicestershire Water Board (Charges) Order 1971.	The whole Order.
S.I. 1971/983.	Leicester Corporation Act 1956 (Amendment) Order 1971.	The whole Order.
S.I. 1971/1148.	Leicester Water (Consoli- dation etc.) Order 1971.	Sections 11, 17 to 19, 21 to 23, 27, 29 (3) to (6), 31 to 35, 37 and 38 and Schedules 4 and 6.
S.I. 1972/921.	River Dove Water Board Order 1972.	Section 5.
S.I. 1972/1296.	City of Leicester (Western Bypass New Bridge) Scheme 1972 Confirmation Instru- ment 1972.	The whole Order.

Section 111.

SCHEDULE 5

TRANSITIONAL PROVISIONS AND SAVINGS

1. In so far as anything done under an enactment in force in any area which is repealed by this Act could have been done under any enactment in this Act relating to the same matter in the same area, it shall not be invalidated by the repeal but shall have effect as if done under that last-mentioned enactment.

2. Where an instrument or document refers, either expressly or by implication, to an enactment in force in any area which is repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any enactment in this Act relating to the same matter in the same area.

3.—(1) Anything begun under an enactment repealed by this Act may be continued under any enactment in this Act relating to the same matter as if begun under that last-mentioned provision.

(2) Where any period of time specified in, or having effect in relation to, an enactment repealed by this Act is current at the date of such repeal, any provision of this Act relating to the same matter shall have effect as if that period began to run under that provision.

4. References in this Act to things done, left undone, suffered or occurring in the past shall, so far as the context requires for the continuity of operation between an enactment in force in any area which is repealed by this Act and any enactment in this Act relating to the same matter in the same area, be construed as including reference to things done, left undone, suffered or occurring before the coming into operation of that provision of this Act.

SCH. 5
—cont.

5. Where an enactment is repealed by this Act subject to exceptions and a provision included in the repeal is material for the interpretation of a provision excepted from the repeal, the repeal shall not affect the interpretation of the excepted provision.

6.—(1) Buildings provided under section 23 of the Leicester Cattle Market, Town Hall, and Improvement Act 1866 shall continue to be held by the Leicester council for the purposes mentioned in that section unless appropriated for some other purpose. 1866 c. xxvi.

(2) Any land acquired or appropriated for the purposes of land drainage under the Leicester Improvement, Drainage, and Markets Act 1868, the Leicester Improvement Act 1874, the Leicester Improvement Act 1876, the Leicester Improvement Act 1881 and section 111 (Powers to improve watercourses) of the Leicester Corporation Act 1902 shall, if so held by the Leicester council immediately before the commencement of this Act, be deemed to be held by them for the purposes of the Land Drainage Act 1976. 1868 c. xxiv.
1874 c. lxii.
1876 c. xxvi.
1881 c. lxxii.
1902 c. clxxvii.
1976 c. 70.

(3) The Abbey Park and Saint Margaret's Pasture appropriated and acquired by their predecessors under the Leicester Corporation Gas and Water Transfer Act 1878 shall to the extent that they are owned by the Leicester council immediately before the commencement of this Act be deemed to be held by them under and may be used by them for the purposes of section 164 of the Public Health Act 1875 and section 19 of the Act of 1976 respectively. 1878 c. cxxxii.
1875 c. 55.

(4) The land acquired by their predecessors under the Saint Margaret's Leicester Select Vestry (Parish Piece) Act 1892 shall to the extent that it is now owned by the Leicester council be deemed to be held by them under and may be used by them for the purposes of section 19 of the Act of 1976. 1892 c. xciii.

(5) Any land held by the Leicester council under section 58 (Further powers for the acquisition of land) of the Leicester Corporation Act 1930 immediately before the commencement of this Act shall be deemed to be held by them for the benefit, improvement or development of the city as if acquired under section 120 of the Act of 1972. 1930 c. clxxxiv.

(6) The public hall in the city, known as the De Montfort Hall, shall be deemed to be held by the Leicester council for the purposes of sections 132 and 145 of the Act of 1972.

(7) The Scheme confirmed under section 103 (Scheme for fixing equated periods) of the Leicester Corporation Act 1902 and in force immediately before the commencement of this Act shall continue to have effect.

SCH. 5
—*cont.*

1963 c. 29.

(8) Any advance made under section 5 (Loans for erection &c. of buildings) of the Act of 1956 and outstanding immediately before the commencement of this Act shall be deemed to have been made under section 3 of the Local Authorities (Land) Act 1963.

1970 c. xiv.

(9) Any undertaking entered into under section 6 of the Act of 1956 or section 5 of the Leicestershire County Council Act 1970 shall be deemed to have been entered into under section 33 of the Act of 1982.

1984 c. 55.

(10) In consequence of the repeal by this Act of sections 43, 49, 58 and 122 of the Act of 1956 (by virtue of which section 56 (2) and 58, 75 and 269 of the Act of 1936 were replaced by provisions of the Act of 1956 not re-enacted in this Act and had no application in the city immediately before the commencement of this Act) the said sections 75 and 269 of the Act of 1936 and sections 84 and 77 of the Building Act 1984 (which have respectively replaced sections 56 and 58 of the Act of 1936) shall have effect in the city as from the commencement of this Act.

(11) The fund established under section 88 of the Act of 1968 and known as “the corporate estate fund” shall be deemed to have been established under paragraph 16 of Schedule 13 to the Act of 1972 for the purpose of meeting capital expenditure of the Leicester council in connection with their functions of acquiring land for the benefit, improvement or development of the city and of erecting buildings and constructing or carrying out works on such land.

(12) The byelaws made under subsection (4) of section 92 (Hairdressers and barbers) of the Act of 1956 shall be deemed to have been made by the Leicester council under section 77 of the Act of 1961 and shall have effect and may be enforced accordingly.

(13) The golf courses provided under section 113 of the Act of 1956 shall be deemed to have been provided by the Leicester council under section 19 of the Act of 1976.

1897 c. ccxviii.

(14) The crematorium provided under section 36 (Power to establish Crematorium) of the Leicester Corporation Act 1897 shall be deemed to have been provided by the Leicester council under section 214 of the Act of 1972.

(15) The cemeteries vested in the Leicester council and known respectively as the Belgrave Cemetery and the Welford Road Cemetery shall be deemed to have been provided by them under section 214 of the Act of 1972.

(16) All mortgages created by the Leicester council or by the Council of the former city and county borough of Leicester before the commencement of this Act to secure money borrowed by them shall be deemed to have been created under paragraph 2 of Schedule 13 to the Act of 1972.

(17) Any line of frontage prescribed and defined under section 41 of the Leicester Corporation Act 1921 shall be deemed to have been prescribed by the county council under section 73 of the Act of 1980. 1921 c. cxvi. SCH. 5
—cont.

(18) The byelaws made under section 9 (Management of housing estates) of the Act of 1968 shall be deemed to have been made by the Leicester council under section 9 of the Act of 1976 and shall have effect and may be enforced accordingly.

(19) Where immediately before the enclosure of any land in pursuance of section 9 (Enclosure of roadside land in Anstey Lane) of the Act of 1956 or the conveyance of any land in pursuance of section 15 (Adjustment of boundaries of streets) of that Act there was under, in, upon, over, along or across the land any apparatus belonging to or maintained by the electricity board and that apparatus was under, in, upon, over, along or across the land immediately before the commencement of this Act, Part II of Schedule 12 to the Act of 1980 shall apply to the land as if it had been conveyed in pursuance of section 256 of the Act of 1980 (exchange of land).

7. Nothing in this Act shall affect the operation of section 254 of the Act of 1972.

8. The mention of particular matters in this Schedule shall not be held to prejudice or affect the general application of sections 15, 16 and 17 of the Interpretation Act 1978. 1978 c. 30.

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Leicestershire Act 1985

CHAPTER xvii

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